

**PURPOSIVE APPROACH TO STATUTORY INTERPRETATION: COMPARATIVE
ANALYSIS AND IMPACT ON NIGERIAN LEGISLATIVE DRAFTING**

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ABSTRACT

This dissertation examined the rising prominence of the purposive approach to interpretation, which considers the underlying legislative purpose to inform interpretation and application of statutes. The objectives of this research were to assess: the extent to which the adoption of a purposive approach to statutory interpretation could improve the clarity and effectiveness of Nigerian legislation through enhanced legislative drafting practices and judicial application; how effective current Nigerian legislative drafting practices articulate the underlying purpose of statutes; analyze how Nigerian courts understood and applied the purposive approach to statutory interpretation; and the experiences of other jurisdictions in order to obtain best practices for adopting and implementing this approach in the Nigerian context. The main justification of this research concerned addressing the challenges of the literal rule of interpretation, and exploring the potential benefits of the purposive approach.

The first objective was achieved by adopting the doctrinal research methodology. Existing literatures relating to purposive rule of statutory interpretation in Nigeria were analysed to assess the extent to which the adoption of purposive approach to statutory interpretation could improve the clarity and effectiveness of Nigerian. The second objective was also achieved through utilising the doctrinal research methodology. Articles, books, and legislations were used to assess the effectiveness and adaptability of Nigerian legislation. The third objective was achieved by utilising primary materials, particularly, Nigerian court cases to understand how effective the Nigerian courts utilized the purposive rule to statutory interpretation. Finally, the fourth objective also utilised articles, seminar papers, and books in analysing the experiences of other jurisdictions, particularly jurisdictions applying the purposive rule of statutory interpretation.

The finding of the first objective showed that purposive approach to statutory interpretation enables its user to easily ascertain the purpose of the legislation, improves clarity, and efficiency. The second objective found that the current Nigerian legislative drafting practices in articulating the underlying purpose of statutes is average at best. The third objective found that in Nigeria, the use of purposive approach to interpretation of statute has been on the increase as Nigerian courts try to adopt the statutory approach that will best suit the case at hand so as to achieve fairness in the case. The fourth objective found that most jurisdictions in the world adopt the purposive approach to statutory interpretation as it enables the courts interpret legislation in a wider context. The first recommendation was that Nigerian courts should continue to utilise the purposive approach to interpretation of statute as it aids the court in being flexible and moving along with the ever-changing society. Secondly, it recommends that legislative drafters in Nigeria should incorporate mechanisms that will promote the use of the purposive approach by judges when interpreting statutes. Thirdly, it recommends that there should be continuous training and seminars for legislative drafters and legislators. Finally, it recommended that the Nigerian Interpretation Act should be amended by the National Assembly to include a provision which would provide that the interpretation which will promote the purpose of an Act must be adopted by the courts.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Navigating the complex world of law often feels like traversing a labyrinth of statutes, each one a meticulously crafted document intended to shape and regulate conduct. Yet, the very precision of these legal pronouncements can sometimes conceal their true meaning, leading to confusion and unintended consequences. In this intricate domain, statutory interpretation emerges as the compass, guiding us through the thicket of words to the heart of legislative intent.¹ Traditionally, interpretation relied heavily on the "literal rule," meticulously dissecting the plain meaning of every word. This approach, while seemingly straightforward, often proved too rigid, failing to capture the nuances of legislative purpose and leading to outcomes at odds with the lawmakers' intent. Recognizing these limitations, legal systems around the world began to embrace a more dynamic approach: the purposive approach to statutory interpretation.²

Under the purposive approach, the interpreter delves beyond the surface of words, delving into the legislative context, history, and underlying aims of the statute. This shift, from fixating on the textual minutiae to unearthing the legislative spirit, breathes life into the words, ensuring that interpretation aligns with the lawmakers' true intent.³ This dissertation adopts a comparative lens to examine the evolution and application of the purposive approach across diverse legal systems. This research draw insights from prominent jurisdictions like the United Kingdom (UK), France,

¹ M. M. Akanbi 'Purposive Approach to Statutory Interpretation in Nigeria: A Critic' *Journal of Law, Policy and Globalization Appraisal* [2014] (25) (1-10).

² O. C. Eze, 'Purposive Approach to the Interpretation of Statutes: A Comparative Analysis' *The Nigerian Juridical Review* [2011] (7) (1-25).

³ F. A. Bennion, *Statutory Interpretation: A Code* (London: LexisNexis, 2017).

Canada, and South Africa, exploring how they have grappled with the opportunities this approach presents. Yet, our primary focus will remain on Nigeria, a vibrant legal landscape where the purposive approach holds immense potential to shape the future of legislative drafting and interpretation.⁴

This research will delve into the specific impact of the purposive approach on Nigerian legislative drafting. It will analyze how an understanding of legislative intent can guide drafters to craft clear, concise, and unambiguous statutes that truly embody the desired aims. In doing so, we will explore techniques and best practices for purpose-driven drafting, seeking to equip legislators with the tools necessary to create robust and adaptable legal frameworks.⁵

1.2 Statement of the Research Problem

The persistent ambiguity and unintended consequences resulting from applying the literal rule in Nigerian legislative drafting necessitate a thorough examination of the potential and challenges of adopting a purposive approach to statutory interpretation as a means to improve the clarity, effectiveness, and adaptability of Nigerian legislation.

Some of the concerns relating to using the traditional approach includes prevalence of ambiguity. The rigid focus on the literal meaning of words in the existing interpretive framework often leads to ambiguous provisions, generating judicial uncertainty and inconsistent application of the law. It also leads to unintended consequences. Fixation on the textual surface can overlook the underlying legislative purpose, resulting in outcomes that contradict the lawmakers' true intent and societal needs. Furthermore, it promotes static legislation. In a rapidly evolving social context,

⁴ Cross, R., Bell, J., & Engle, G. *Cross: Statutory Interpretation* (Oxford: Oxford University Press, 2018).

⁵ L. Du Plessis, *Re-Interpretation of Statutes* (Claremont: Juta & Company, 2016).

literal interpretation struggles to adapt to unforeseen challenges and opportunities, potentially rendering legislation ineffective.

For instance, Section 32(1) of the Police Act, 2020 provides inter alia that a suspect or defendant alleged or charged with committing an offence established by an Act of the National Assembly or any other law shall be arrested, investigated and tried or dealt with according to the provisions of the Act. Generally, a court of law will interpret this provision according to its plain and ordinary meaning (literal rule). The issue then is, does interpreting the particular provision according to the literal rule ensure fair hearing in this particular matter? The answer is no. This is because, in applying the literal rule, the police officer is to arrest a suspect before even investigating the matter which the suspect is alleged to commit. However, where the court utilizes the purposive approach, the police officer is expected to investigate the matter that the suspect is alleged to have committed, where the police officer finds incriminating and sufficient evidence linking the suspect to the offence, then he is to arrest the suspect and charge the suspect to court within a good time to be tried. The use of the literal rule in interpreting section 32(1) of the Police Act contravenes section 36 of the Constitution of the Federal Republic of Nigeria, 1999. Therefore, there are situations in which the purpose of the provisions of a legislation needs to be looked into so as to ensure that justice is attained.

1.3 Research Questions

In line with the problem statement, the following research questions are developed-

- i. To what extent can the adoption of a purposive approach to statutory interpretation improve the clarity, effectiveness, and adaptability of Nigerian legislation through enhanced legislative drafting practices and judicial application?

- ii. How effectively do current Nigerian legislative drafting practices articulate the underlying purpose of statutes, facilitating interpretation in line with the lawmakers' intent?
- iii. How do Nigerian courts currently understand and apply the purposive approach to statutory interpretation?
- iv. How do the experiences of other jurisdictions, particularly those with established purposive approaches, inform best practices for adopting and implementing this approach in the Nigerian context?

1.4 Aim and Objectives

Generally, guided by the growing recognition of the limitations of the literal interpretive rule, the objective of this research is to examine the potential and constraints of adopting the purposive approach to statutory interpretation in Nigeria. Through analyzing its impact on legislative drafting practices and judicial application, we aim to assess its contribution to enhanced clarity, effectiveness, and adaptability of Nigerian legislation. Specifically, other objectives are:

- i. To assess the extent to which the adoption of a purposive approach to statutory interpretation can improve the clarity, effectiveness, and adaptability of Nigerian legislation through enhanced legislative drafting practices and judicial application.
- ii. To assess how effectively current Nigerian legislative drafting practices articulate the underlying purpose of statutes, facilitating interpretation in line with the lawmakers' intent.
- iii. To comprehensively analyze how Nigerian courts currently understand and apply the purposive approach to statutory interpretation?

- iv. To analyze the experiences of other jurisdictions, particularly those with established purposive approaches in order to obtain best practices for adopting and implementing this approach in the Nigerian context?

1.5 Scope and Delimitation of the Study

The research focuses on the application of purposive rule of interpretation of statutes in Nigeria. The paper delves into the usage of the traditional rules of interpretation of statutes and examines their advantages and challenges in relation to interpretation of legislation. The research also inquires into the application of purposive rule of interpretation of statute in other climes and advocates for the active use of purposive rule of interpretation of statutes in interpreting legislations in Nigeria.

The research is limited to purposive rule of interpretation in relation to statutes, that is, enactments, legislations, laws. Consequently, constitutional interpretation is not considered in this work

1.6 Significance of the Study

This study on the purposive approach to statutory interpretation and its impact on Nigerian legislative drafting holds significant importance to specific entities. These include the judiciary, the legislative drafters, and the academics.

Through this study, judges will be encouraged to consider the lawmakers' intended purpose beyond just the literal meaning of words, resulting in interpretations that faithfully reflect the legislation's original goals. The study also aims to target training programs and resources for judges, improving their understanding and application of the purposive approach to interpretation of statutes.

Furthermore, through this study, Nigerian legislative drafters may obtain valuable insights and practical recommendations encouraging them to employ techniques that clearly articulate legislative intent and minimize ambiguity.

Finally, this study will contribute to academic scholarship by encouraging academic scholars to fill the gap in research on the application of the purposive approach in African legal systems, specifically focusing on Nigeria and its impact on the Nigerian legal system.

1.7 Research Methodology

This dissertation adopts the doctrinal research methodology. Doctrinal research is a research methodology that focuses on analyzing and interpreting legal documents, such as statutes, case law, regulations, and treaties, in understanding legal concepts, principles, and doctrines by application of the power of reasoning⁶. It refers into research into law as it stands in books⁷.

Consequently, this dissertation will rely on both primary and secondary sources for materials. Primary source materials used in this dissertation include the Constitution of the Federal Republic of Nigeria 1999 (As Amended), Statutes, and case laws. Also, secondary sources such as textbooks, articles, newspapers, seminar papers, etc will also be used.

Furthermore, the method of data collection in this research is primarily qualitative due to the fact that the sources of data to be analyzed are not empirical with formula and equations nor statistical in nature. Also utilizing the qualitative method will aid in reaching a logical and subjective conclusion.

⁶ M.O.U. Gasiokwu, *Legal Research and Methodology*, (Enugu, Chenglo Limited, 2007).

⁷ *Ibid*

1.8 Literature Review

This research reviews a wide range of extant and relevant literature relevant to the subject of this research work. It evaluates the different scholarly opinions on the concept of interpretation of statute, necessity for interpretation of statute and purposive rule of interpretation of statute.

A Treatise on Statute Law⁸ is a book which offers a comprehensive analysis of the principles and rules governing the interpretation of statutes. It delves into the historical development of statutory interpretation and provides insights into various interpretive methods and techniques. Craies explores the role of judges in interpreting statutes, the use of legislative intent, and the importance of context and purpose in understanding statutory provisions.

The book emphasizes the literal rule of interpretation. The book also discusses other interpretive principles such as the golden rule and the mischief rule which allows judges to depart from the literal meaning in certain circumstances.

Although the book provides a solid foundation for understanding the principles and techniques of statutory interpretation, it focuses primarily on the traditional rules of interpretation while breezing through other rules of interpretation. This research intends to fill this gap by focusing primarily on one of the most used rules of interpretation in present times which is the purposive rule of interpretation of statute.

Crawford in his book⁹, offers a comprehensive examination of the principles and methods involved in interpreting statutes. Crawford explores the different approaches to statutory interpretation including textualism, purposivism, and the role of legislative intent. He delves into the historical

⁸ William Feliden and Craies, *A Treatise on Statute Law* (London: Sweet & Maxwell 1883).

⁹ E. T Crawford, *The Construction of Statutes* (Thomas Law Book Company, 1940).

development of statutory construction and provides insights into the various techniques used by judges to understand and apply statutory provisions. Crawford lays emphasis on the importance of considering the context and purpose of legislation. He maintained that statutes should be interpreted in light of their objectives and the problem they seek to address.

Crawford's book, provides a comprehensive framework in relation to statutory interpretation in its generality. However, the book does not cover the application of purposive rule of interpretation in Nigeria and its effect on legislative drafting. This lacuna will be covered in this study.

Legislative Drafting- A New Approach: A Comparative Study of Methods in the United Kingdom, France, Germany, and Sweden¹⁰ is a book which demonstrated the connection and the impact of statutory interpretation on legislative drafting style. The book conducted a comparative study of the four countries on their legislative procedures as well as the most used statutory interpretation rules in those Countries. The book concludes with suggestions to reform the drafting process in Britain. Dale's book focused generally on the inter-connectivity between legislative drafting and statutory interpretation and the impact they have on each other.

As innovative as this study is, the main crux of this research which is the purposive approach to interpretation of statute and its effect on legislative drafting in Nigeria is not accommodated in Dale's book. As such, this research intends to fill this gap by analyzing the purposive approach to interpretation of statute and examining its effect on legislative drafting in Nigeria.

The book, *The Law-Making Process*¹¹ filled in a great gap which was missing in existing literatures at the time. The main purpose of the book was to improve the understanding of the law-making

¹⁰ William Dale, *Legislative Drafting, A new Approach: A Comparative Study of Methods in the United Kingdom, France, Germany, and Sweden* (London: Butterworths, 1977).

¹¹ Micheal Zander, *The Law-Making Process* (Weindenfeld and Nicolson, 1989).

process. The book deals with sources of legislation, forms of legislation, the legislative process, statutory interpretation, the doctrine of stare decisis, law reporting, the nature of judicial role in law-making, subsidiary sources of law, process of law reform, and so much more.

Michael Zander's book touches on statutory interpretation and discusses the three traditional rules of interpretation of statutes extensively. It goes further to touch on the external aids to interpretation of statutes like parliamentary debates, and government publications. However, as in-depth as the book is on statutory interpretation, it makes no mention of purposive approach to interpretation of statutes which is the subject matter of this thesis. Therefore, there is a need to fill the existing gap in this work which is the absence of mention on purposive approach to interpretation of statutes.

Veraac Crabbe book¹² encompasses the whole subsistence of legislative drafting. Its focus includes policy and parliamentary counsel, language and legislation, constitutional limitations when drafting, the legislative sentence, punctuation, conventions in legislative drafting like memorandum, arrangement of sections, etc., the presumptions while drafting a Bill like vested rights, ouster clauses, etc. It goes further to discuss how to draft offences and penalty section, consolidation, codification, statute law revision, law reform, subsidiary legislation, parliamentary procedure, etc.

With all the useful information contained in the book, the book does not touch on statutory interpretations at all. As such, this thesis intends to cover up the draught in this area as statutory interpretation is also related to legislative drafting.

¹² Veraac Crabbe, *Legislative Drafting* (Cavendish Publishing Limited, 1993).

Aharon Barak's book¹³, deals entirely with purposive approach to interpretation of law, both statute interpretation and constitutional interpretation. The book distinguishes between interpretive activity and activities that resemble interpretation but are distinct from it, like filling a gap in a legal text or correcting a mistake in it. Barak analyses the fundamental perspectives of legal interpretation and surveys the major systems of legal interpretation and the extent to which they are relevant. He also addresses the sources of interpretive rules, their legal status, and the possibility of deviating from them. Barak goes further to analyze the role of judges as interpreters and the relationship between the judge's interpretation and that of others in society. He also discusses the importance of interpretive rules and criticizes them. Furthermore, Barak analyzes the three components of purposive interpretation: language, purpose, and interpretive discretion. Finally, Barak evaluates how purposive interpretation acts upon the primary types of legal texts which includes the interpretation of wills, contracts, statutes, and constitution.

This book is laudable as it primarily focuses on purposive interpretation, which literature has been quite scarce. However, even though the book focuses on purposive interpretation, it does not dive into the effect that purposive approach to interpretation of statute will have on legislative drafting in Nigeria. In this regard, the thesis will fill the gap that the book has left in relation to the effect of purposive interpretation to legislative drafting.

The Practical Guide on Legislative Drafting¹⁴ is a practical guide designed to meet the modern trends in legislative drafting. It is vital information for use in drafting legislation. It carefully analyses the role of the drafter in relation to the policy maker. It contains clear guides as to the do's, don'ts and why's of drafting effective legislation. It identifies common mistakes and suggests

¹³ Aharon Barak, *Purposive Interpretation* (Princeton University Press, 2005).

¹⁴ Sylvester S. Shikyil, *The Practical Guide on Legislative Drafting* (Policy Analysis and Research Project, National Assembly, 2006).

better practices. The practical guide also offers guidance to legislative drafters in not only polishing essential drafting skills but also raising critical issues and offering creative solutions that will capture the intended choices of policy makers.

While the Guide is an important book which not only guides a drafter on how to properly draft legislations, it does not adequately focus on how to draft legislations in a manner that focuses on the purpose of the legislation. Its aim is to enable legislative drafters draft legislations that will capture the intendment of the legislature. However, the aim of this thesis is to enable legislative drafters draft legislations that will capture the purpose of the legislation and will enable the courts easily identify the purpose of the enactment or statute.

Legislative Law and Process in a Nutshell¹⁵ focuses on the legislative process and all matters related to it. The book gives an insight into the legislative institutions and their characteristics of having committees, lobbyists, etc and the modes of processing Bills, it also explains legislative advocacy and the tactics used to ensure that a proposed Bill is passed by the legislature. It goes further to discuss legislative power, limitations on legislative power and the struggle for legislative power and influence. Davies creates a space for statutory interpretation in which he discusses the fundamentals of statutory interpretation, legislative intent, canons of statutory construction, legislative history, among others.

The book contributes significantly to the literature on legislative drafting, legislative process, and statutory interpretation. It delves into the scope of statutory interpretation and highlights the purposive approach to interpretation of statutes. However, it only briefly touches on purposive

¹⁵ Jack Davies, *Legislative Law and Process in a Nutshell* (West Academic Publishing, 2007).

approach and does not dive into it adequately. Consequently, there is need to add to the literature concerning purposive approach detailed in this book and this will be dealt with in the current thesis.

The book, *Groundwork of Legislative Drafting*¹⁶ is a book of instructions and training in legislative drafting. It presents fourteen chapters ranging from introduction to syntax and structure of legislative sentence, punctuation, styles and devices in legislative drafting, legislative format, design, and outlay. It also contains instructions on important concepts in legislative drafting, the legislative drafting process, guides to interpretation of statutes, drafting delegated or subsidiary legislation, amendments, repeals and transitional provisions, notes on human rights considerations in legislative drafting, drafting exercises and model answers to enable drafters learn easily.

Although the book dives into the guides to interpretation of statutes, it mainly focuses on the traditional guides to interpretation of statutes, that is, the literal rule, the golden rule and the mischief rule. The book does not touch on the purposive approach to interpretation of statute which is the primary subject matter of this thesis. This thesis therefore intends to start from where the book stops and make a deep dive into the purposive approach to interpretation of statutes and its effect on legislative drafting in Nigeria.

*Cases and Materials on Statutory Interpretation*¹⁷ studies statutory interpretation through a series of case studies. It goes further to offer three types of theories: pluralist theories, procedural theories, and institutional theories. Furthermore, the book introduces theories of statutory interpretation through examination of important cases. The book also considers the different interpretive methods used by judges in light of the three theories mentioned above.

¹⁶ Hilary N. Onwe, *Groundwork of Legislative Drafting* (SNAAP Press Limited, Enugu, 2009).

¹⁷ William N. Eskridge, Philip P. Frickey, and Elizabeth Garrett, *Cases and Materials on Statutory Interpretation* (West Academic Publishing, 2012).

The book is a welcome addition to books relating to interpretation of statutes. Its contents provide fresh and novel perspectives on statutory interpretation. However, as timely as the book is, the book makes no mention of purposive interpretation. It focuses more on the theories of statutory interpretation than on the rules of statutory interpretation. As such, the primary focus of this thesis, which is the effect of purposive approach to interpretation of statutes in legislative drafting, is not attempted at all in the book and it is a gap that is intended to be filled by this thesis.

Sylvester Omoregie Imhanobe¹⁸ book covers two distinct but closely related fields of studies: legal studies and legislative drafting. The aspect of the book on legal drafting focuses on use of English language and drafting of certain documents commonly used in legal practice like letters, memorandum, legal opinion, reports, and minutes of meeting. The book deals in detail with the ongoing revolution on the way lawyers use the language and emphasis on plain language drafting. The book also focuses on the legislative drafting aspect. This aspect deals extensively with the qualities and skills required of a good legislative drafter, the stages of drafting a Bill, the sources of materials for drafting Bills, the general structure of a Bill and the characteristics of a good Bill. The book contains useful discussions on several kinds of Bill: Bill to establish a statutory body, licensing and registration scheme, offences implementation of treaties, appropriation Bill, amending or repealing legislation, as well as subsidiary legislation. The concluding part of the book focuses on the Nigerian Law Reform Commission and law revision exercises in Nigeria. It also discusses statutory interpretation and advocates better synergy between the legislature and judiciary in the interpretation of statutes.

¹⁸ Imhanobe, *Principles of Legal & Legislative Drafting in Nigeria* (Imhanobe Law Books Limited, 2014).

This book has global appeal as it highlights the important aspects of legal and legislative drafting. The book discusses the statutory rules of interpretation and does not settle with just the traditional rules of interpretation but also extends to inter alia, purposive approach. It explains purposive approach as well as highlights its importance and challenges and why it is not user friendly in Nigeria as of 2014 when this book was published. However, its discussion on purposive approach to interpretation of statute does not extend to its effect on legislative drafting in Nigeria. It does not give an insight to how the legislative drafter can openly express the purpose of the legislation while drafting and how it will enable courts to easily apply purposive approach to interpretation of statutes when interpreting legislations.

The Book, Revised Practical Guide on Legislative Drafting¹⁹ focuses on legislative drafting as a whole. It includes the stages of preparing legislation, basic drafting standards, drafting procedures which includes understanding the project, analyzing the project, designing the legislative scheme, composing, and developing legislation and scrutinizing and testing the draft. It also looks at the conventional procedures of drafting a Bill, highlights the structure of a Bill, and the grammar and syntax to be used in drafting a Bill. The book goes on to discuss gender neutral language and plain language and highlights avoidable habits in legislative drafting. It concludes by touching on bill scrutiny, bill analysis and amendment of legislation.

As important as the book is in instructing legislative drafters on the right way to draft legislation, the book does not touch on statutory rules of interpretation at all, as such purposive approach to interpretation of statute which is the crux of this thesis is not considered in this book.

¹⁹ National Institute for Legislative and Democratic Studies, *Revised Practical Guide on Legislative Drafting* (National Institute for Legislative and Democratic Studies, Revised Practical Guide on Legislative Drafting, 2014).

D.T. Adem's book²⁰ sets out to address the shortcomings related to the dearth of legislative drafting books in the Country. The book captures the modern trend in legislative drafting which would enable drafters to make their legislation more comprehensible and effective as a law. The book draws on examples that are common to our local circumstances, events, problems, and provides solutions and access to understanding our legislation.

The work has 25 chapters and focuses on several aspects of legislative drafting ranging from the drafting process to the passage of bill process, it also focuses on explanatory materials and aids to interpretation as well as statutory interpretation. However, the chapter that focuses on statutory interpretation is no more than 4 pages. This is not enough to discuss extensively on the statutes of interpretation, as such, the purposive approach, although highlighted in the book, is not given the attention it deserves. This thesis intends to focus extensively on purposive approach to interpretation of statute and find out its effect on legislative drafting in Nigeria.

Legislative Drafting and Statutory Interpretation: An Introduction²¹, is a book which applies a novel approach to the study of legislative drafting as it examines some legislative drafting conventions that have statutory or case law origins such as the judgment in the case of *Bulmer v Bollinger*²². The book also examines some modern theories and innovations in the field of legislative drafting that common law judges may not be familiar with. The book also examines the common law rules of judicial precedent, *stare decisis*, and statutory interpretation that apply in Nigeria and the United Kingdom.

²⁰ The Legislative Drafting Manual (LexisNexis, 2014).

²¹ Tonye Clinton Jaja, 'Judicial Interpretation of Legislation as a Source of Rules of Legislative Procedure and Legislative Drafting: A Comparative Study of United Kingdom and Nigerian Court Cases on Legislative Drafting' (2016). Available at <<http://dxdoi.org/10.12775/CLR.2015.007>> accessed on 1st January, 2024.

²² [1974] EWCA Civ 14

The book is a significant contribution to the field of legislative drafting as well as statutory interpretation as the book makes a case for the inclusion of purpose clause in common law legislation and the application of purposive style of statutory interpretation generally. Its shortcoming is that it does not particularly look at the effect of purposive approach to legislative drafting in Nigeria.

Plain Language Use in Legislative Drafting: Developing a Policy Framework for the National Assembly²³ is a work which focuses on the use of plain drafting in Nigeria and examines the practice of plain language drafting in the National Assembly with the aim of developing an effective policy framework for the National Assembly on plain language use in legislative drafting.

This work is laudable and a significant contribution in the area of legislative drafting. However, the research work does not consider interpretation of statutes. It is this gap that this study seeks to fill.

Legislation and Statutory Interpretation: Concepts and Insights²⁴, is a work where the authors delve into the complexities of statutory interpretation, including the purposive approach. It examines the role of legislative intent and the use of purposive interpretation in resolving ambiguities and achieving statutory objectives.

²³ Yahaya Shamsu, 'Plain Language Use in Legislative Drafting: Developing a Policy Framework for the National Assembly' *International Journal of Legislative Drafting* [2020] (3)(3).

²⁴ William N. Eskridge Jr. James Brudney and Josh Chafetz, *Legislation and Statutory Interpretation: Concepts and Insights* (Foundation Press, 2021).

Although this work particularly focuses on purposive approach, it does not look at the linkage between purposive rule to statutory interpretation and legislative drafting. It ignores the effect which the rule of statutory interpretation can have on legislative drafting practices and vice-versa.

*Principles of Statutory Interpretation*²⁵ is a book which offers a comprehensive examination of statutory interpretation methods, including the purposive approach. It explores the theoretical foundations and practical applications of purposive interpretation, drawing on case laws and legal scholarship.

This book provides significant information on the use of purposive rule to statutory interpretation but leaves out its impact on legislative drafting.

As seen from the literature reviewed above, these literatures are renowned literatures with comprehensive provisions on statutory interpretation. However, only few of these literatures focus in-depth on purposive rule of statutory interpretation and none of these literatures deal with the application of purposive rule of statutory interpretation in Nigeria nor does any of them focus on the effect of the purposive approach on legislative drafting in Nigeria. Consequently, this study intends to focus on purposive approach to interpretation of statutes especially its application in Nigeria and its effect on legislative drafting in Nigeria.

²⁵ Justice G P Singh, *Principles of Statutory Interpretation* (LexisNexis, 2022).

CHAPTER TWO

CONCEPTUAL CLARIFICATIONS AND HISTORICAL BACKGROUND OF INTERPRETATION OF STATUTES

Statutory interpretation is a major function of the judiciary²⁶ as the courts are required to determine cases brought before them after fully understanding such cases and interpreting the laws applicable on the matter before the court in order to give a judgment that will serve justice and fairness to all parties involved. This chapter illuminated the concepts of statutory interpretation, focusing specially on the traditional rules of statutory interpretation and the purposive rule of statutory interpretation.

2.1 Statutory Interpretation

Oxford dictionary defines ‘interpretation’ as the action of explaining the meaning of something²⁷. Cambridge dictionary defines it as an explanation or opinion of what something means²⁸. Statute is said to be a written law passed by the legislature, whether of a state or of the federation, which sets out the general propositions of law that the courts are to apply to specific situations. Interpretation of Statute is a process by which a court seeks to ascertain the true meaning of the expression or word or phrase which is in question in any statute before the court and determine the true intention of the legislature behind such statutory provision. Consequently, interpretation of statutes is the correct understanding of the law²⁹.

²⁶ See section 6 of the CFRN 1999.

²⁷ Oxford, *The New Oxford Dictionary of English*, (Oxford University Press, 2010).

²⁸ Cambridge, *Cambridge Learner’s Dictionary*, (Cambridge University Press, 2012).

²⁹ Rashi Choudhary, ‘Interpretation of Statutes: A Complete Study to an Aids to Interpretation’ available at <<https://www.legalserviceindia.com/legal/article-2713-interpretation-of-statutes-a-complete-study-to-an-aids-to-interpretation.html>> accessed on 25th September 2023.

Section 6 of the Constitution of the Federal Republic of Nigeria, 1999 vests judicial powers in the courts. This judicial power includes the interpretation of statutes and giving effect to the intention of the legislature. Justice Kalgo JSC (as he then was) expressed this in the case of *Global Trans. Oceanica S.A. & Anor v Free Ent. (Nig) Ltd*³⁰ thus:

“...the judicial powers of the Federation and the States are vested in the courts established for the Federation and the States respectively. And although the traditional function of the courts is to interpret, uphold and pronounce what the law is and not what it ought to be, very often, judges make useful comments in the course of interpreting a law which later turn out to influence an amendment to that law”.

In interpreting statutes, the courts are faced with two situations:

- (a) where the words are clear and unambiguous; and
- (b) where the words are unclear and ambiguous.

Where a statute is clear, plain, and free of ambiguity, the court must adhere to the exact wordings of the statute, that is, the intention of the Legislature or the maker as expressed in the statute³¹. However, where the words are unclear and ambiguous, the court will have to infer the intent of the legislature through diving into the intended meaning of the provisions of the statute³². This in turn may lead to judges interpreting the same statute in different ways leading to varying decisions of courts. However, in Nigeria, the principles of interpretation of statute are treated with utmost respect because of the application of the doctrine of stare-decisis, that is, binding precedent.

³⁰ (2001) 5 NWLR (PT.706) 426.

³¹ Everycrsreport.com, ‘Statutory Interpretation: General Principles and Trends’ (September 2014). Available at < <https://www.everycrsreport.com/reports/97-589.html>> accessed on 6th January 2024.

³² *Ibid.*

Therefore, a pronouncement of the apex court or higher courts in general are binding on lower courts in Nigeria.

Generally, in interpreting statutes, the courts rely on the literal rule and where it is not applicable, the courts utilize the golden rule or the mischief rule in interpreting statutes. However, there are situations in which the above rules, which are the traditional rules of interpretation, do not effectively interpret the law. It is due to such situations that other rules of interpretation were born. In this paper, focus is on the purposive rule of interpretation of statute. The purposive approach to interpretation of statutes is a recent addition to the rules of interpretation of statutes. It gives effect to the general purpose of legislation and not the mere intention of the legislature. The purposive approach to interpretation of statute considers the context in which the words of a statute are used and not the plain and ordinary meaning of the words. The purposive approach to interpretation of statute advocates better cooperation between the Legislature and the Judiciary

2.1.1 The Literal Rule

The literal rule is also referred to as “plain meaning rule”. In applying this rule, the courts are to utilise the natural and ordinary meaning of the provisions of a statute to respect the will of the parliament. According to Higgins J,³³ the literal rule seeks the intention of the legislature through an examination of the language in its “ordinary and natural sense ... even if we think the result to be inconvenient or impolitic or improbable”. The literal rule is said to “give the words of the statute their literal, plain, or ordinary meaning.”³⁴ The literal rule says that the intention of parliament is best found in the ordinary and natural meaning of the words used. It is believed that if the courts

³³ *Amalgamated Society of Engineers v. Adelaide Steamship Co Ltd* (1920) 28 CLR 129, 161-2.

³⁴ Rashi Choudhary (n29).

are given the opportunity to infer meaning into the provisions of statutes, then the intention of the legislature will be contradicted. Lord Diplock stated that³⁵:

“Where the meaning of the statutory words is plain and unambiguous, it is not then for the judges to invent fancied ambiguities as an excuse for failing to give effect to its plain meaning because they consider the consequences for doing so would be inexpedient, or even unjust or immoral.”

However, for enactments to be construed in their plain and ordinary meaning, the words must be plain, clear, and unambiguous. The use of literal rule of statutory interpretation can be illustrated with the case of *Fisher v Bell*³⁶.

In this case, the Restriction of Offensive Weapons Act 1959 made it an offence to offer certain offensive weapons for sale including flick knives. James Bell, a Bristol shopkeeper, displayed a flick knife in his shop window. The Court while construing the provision of the Act in its plain and literal meaning, noted that Mr. Bell had not offered the knives for sale. This is because, in law of contract, placing something in a shop window is not an offer for sale, it is merely an invitation to treat. It is the customer who makes an offer to the shop when he proffers money for an item on sale. Consequently, the court held that the shopkeeper had not made an offer to sell and so was not guilty of the offence.

The literal rule of interpretation of statute has merits and demerits just like other rules of statutory interpretation. It has been observed that literal rule showcase respect to the legislature as it gives the legislature the freedom to enact legislations as it deems fit without much correction to its provisions as long as the provisions are clear and unambiguous. The rule also encourages drafters

³⁵ *Duport Steels Ltd & ors v Sirs & ors* [1980] 1 All ER 529.

³⁶ [1960] 3 All ER 731.

to draft in simple, plain English so that any person who understands plain English will be able to read the enactment, it also promotes separation of power among the three organs of government. However, the literal rule has been criticized for failing to acknowledge the generally ambiguous nature of the English language. Generally, words have several meanings and the meaning of a word might change depending on the context it is being used. The rule does not make accommodation for this change. Also, the use of literal rule in some circumstances can lead to absurdity and create loopholes in the law. The literal rule also suggests that drafters always draft perfect laws, which is not possible. It is due to these criticisms that the golden rule was created.

2.1.2 Golden Rule

The golden rule of interpretation of statutes was created from the literal rule and it serves as an exception to the literal rule. The golden rule reiterates the principle that provisions of an enactment be given their plain, ordinary meaning. However, it notes that where the use of its plain and ordinary meaning will lead to absurdity, inconsistency, or repugnancy, the court is allowed to look beyond the plain and ordinary meaning of the provision to avoid an unjust interpretation³⁷. However, the new meaning given to the word must be such that the word can bear.³⁸ This rule was defined by Lord Wensleydale³⁹, he stated that⁴⁰:

“The grammatical and ordinary sense of the words is to be adhered to unless that would lead to some absurdity or some repugnance or inconsistency with the rest of the instrument

³⁷ Tokeley, K. (2002) ‘Interpretation of Legislation: Trends in Statutory Interpretation and the Judicial Process’ available at <<http://www.victoria.ac.nz/law/research/publications/vuwlr/prev-issues/pdf/vol-33-2002/issues-3-4/tokeley.pdf>> accessed 14th November, 2023.

³⁸ *Ibid.*

³⁹ Grey v Pearson (1857) HL Case 61.

⁴⁰ *Ibid.*

in which case the grammatical and ordinary sense of the words may be modified so as to avoid the absurdity and inconsistency, but no farther.”

This rule was utilised in the case of *Adler v George*⁴¹. In this case the Defendant, Mr. Frank Adler was arrested and charged for obstructing a HM Force within the vicinity of Markham Royal Air Force Station, Norfolk which is a prohibited place. Under section 3 of the Official Secrets Act 1920, it was an offence to obstruct HM Forces in the vicinity of a prohibited place. The Defendant, Mr. Frank, argued that he was not in the vicinity of a prohibited place, instead, he was actually in a prohibited place. The court applied the golden rule to extend the literal wording of the statute to cover the action committed by the Defendant. If the literal rule had been applied, it would have produced absurdity, as someone protesting near the base would be committing an offence whilst someone protesting in the base would not have committed an offence.

Also, in the case of *R v Allen*⁴², the Defendant was charged with bigamy which is an offence prohibited under Section 57 of the Offences Against Persons Act 1861. The provision of the Act reads “Whoever is married, marries another commits bigamy.” Since it was impossible for someone already married to validly enter into another marriage contract, the court applied the golden rule and interpreted the word “marries” in this context not to mean entering into a marriage contract, instead, it sees the word as referring to “going through marriage ceremony.” If the court had stuck to the literal rule, the intention of the legislature would have been circumvented as a person already validly married cannot validly enter into another marriage. Due to the use of the golden rule, the conviction of the Defendant was upheld.

⁴¹ [1964] 2 QB 7.

⁴² [1872] LR 1 CCR 367.

An advantage of golden rule is that the rule gives the courts more discretionary powers to dive deeper into the intention of parliament to achieve the intended objective. However, the rule provides no clear means to test the existence or extent of an absurdity, it depends on each case.

2.1.3 Mischief Rule

This is the third traditional rule of interpretation of statutes. This rule focuses on the mischief or defect that the legislature intends to solve by enacting a statute. In doing this, the court looks at the status of the law prior to the enactment of a statute to discover what gap or mischief the statute was intended to cover. Thereafter, the court is required to interpret the statute in such a way as to resolve the mischief or close the gap.

The courts first recognised the mischief rule in Heydon's case⁴³ where it was stated that there were four points to be taken into consideration when interpreting a statute⁴⁴:

1. What was the common law before the making of the Act?
2. What was the mischief and defect for which the common law did not provide?
3. What remedy Parliament hath resolved and appointed to cure the disease of the Commonwealth?
and.
4. The true reason for the remedy.

This rule gives the court justification for looking beyond the wordings of the statute to discover the gap that the statute is to bridge and discover how best to bridge the gap to ensure justice. Lord

⁴³ Heydon's case (1584) 76 ER 637.

⁴⁴ *Ibid.*

Lindley M.R.⁴⁵ stated that in interpreting any statutory enactment, regard must be had not only to the words used, but also to the history of the Act and the reasons which lead to its being passed.

An example of the use of the mischief rule is found in the case of *Corkery v Carpenter*.⁴⁶ In 1951, Shane Corkery was sentenced to one month imprisonment for being drunk in charge of a bicycle in public. At about 2.45 p.m on 18 January 1950, the defendant was drunk and was pushing his pedal bicycle along Broad Street in Ilfracombe. He was subsequently charged under section 12 of the Licensing Act 1872 with being drunk in charge of a carriage. The 1872 Act made no actual reference to bicycles. The court elected to use the mischief rule to decide the matter. The purpose of the Act was to prevent people from using any form of transport on a public highway whilst in a state of intoxication. The bicycle was clearly a form of transport and therefore the user was correctly charged.

An advantage of this rule is that the mischief rule gives courts more discretion than the literal rule and golden rule as it enables the court to discover the intention of parliament. However, due to this discretion, the rule encourages the usurping of the lawmaking function of the legislature.

It is important to note that the general principles of interpretation of statute are not exhaustive. The three principles stated above are simply the most well-known and utilized principles for interpreting statutes. However, the courts have observed that in the cause of ensuring justice, each case should be dealt with based on its peculiarity and the best rule of interpretation should be adopted in construing the provisions of an enactment. According to Fatai-Williams, CJN⁴⁷ (as he then was):

⁴⁵ [1900] 1 Ch. 718, CA.

⁴⁶ [1951] 1 KB 102.

⁴⁷ *Awolowo v Shagari* (1980) LREC 162.

“The three rules of interpretation which dominate the historical perspective ... have been useful aids in the interpretation of statutes in Common Law countries for centuries. It has been said that they have been fused so that we now have just one rule of interpretation; a modern version of the literal rule which requires the general context to be taken into consideration before any decision is taken concerning the ordinary meaning of the words”.

The rule of interpretation noted by Fatai-Williams is the purposive approach to statutory interpretation.

2.1.4 Ejusdem generis Rule

This is a Latin phrase that means “of the same kind”⁴⁸. Where a general word follows an enumeration and particular class of things, the general word will be construed as applying to things of same class⁴⁹. The Supreme Court of Nigeria in *Jammal v. ACB*⁵⁰ had to decide whether the ejusdem generis rule applied to the interpretation of section 7 (1) (b) (iii) of the federal revenue court decree 1973 that provides “banking, foreign exchange, currency or other fiscal measures”. The court held that the ejusdem generis rule applies to the interpretation of section 7 (1) (b) (iii). It was stated that “measures” must be taken to qualify each of the preceding specifically enumerated subjects, including banking. As such, the way the provision is interpreted is as follows: “banking measures, foreign exchange measure, currency measures and other fiscal measure”⁵¹.

⁴⁸ Legal Information Institute, *Ejusdem generis* (February 2022). Available at <https://www.law.cornell.edu/wex/ejusdem_generis> accessed on 12th January 2024.

⁴⁹ *Ibid.*

⁵⁰ *Jammal Steel structures Ltd v. African Continental Bank Ltd* (1973) NSCC 619.

⁵¹ *Ibid.*

2.1.5 Purposive Rule

Purposive approach to interpretation of statute is sometimes referred to as purposivism⁵², purposive construction⁵³, purposive interpretation⁵⁴, or “the modern principle in construction⁵⁵”. It is a rule of interpretation used by courts to discover the purpose for which legislation is made. The rule requires a court to focus on the purpose of a statute as well as the intention of the legislature when the statute was created, and the words of the statute itself. The words must be interpreted in the broader or wider context of the statute⁵⁶. Although it could be said that this rule has similarities with the mischief rule, the rule not only advocates for looking for the gap in the old law and closing the gap with the new law, but it also infers the intent of the legislature as to what the legislature intended to achieve with the new law and gives rulings based on what is inferred.⁵⁷ Lord Denning stated that⁵⁸:

“We sit here to find out the intention of parliament and of ministers and carry it out, and we do this better by filling in the gaps and making sense of the enactment by opening it up to destructive analysis.”

The primary feature of the purposive approach to interpretation of statute is that it takes into consideration both the plain and ordinary meaning of an enactment as well as the context in which the words of the enactment are used. The rule allows courts to refer to Hansard and other extrinsic

⁵² Posner Richard, ‘Pragmatism versus Purposivism in First Amendment Analysis’. *Stanford Law Review* [2002] (54) (4) 737.

⁵³ Barak Aharon, *Purposive Interpretation in Law* (Princeton University Press, 2005).

⁵⁴ *Ibid*

⁵⁵ E. A. Driedger. *Construction of Statutes* (Butterworth & Co, 1998).

⁵⁶ *Ibid*.

⁵⁷ *Ibid*.

⁵⁸ *Magor and St. Mellons Rural District Council v Newport Corporation* [1952] AC 189 (HL) at 191.

materials such as records of proceedings at the committee stage of passing a bill into law, dictionaries, etc to deduce the intention of the legislature.

Purposive rule emanates from one of the three traditional rules of interpretation of statute, the mischief rule. It was created to replace the literal rule, golden rule, and mischief rule.⁵⁹ In the process of utilising purposive rule to interpret a statute, a court may rely on intrinsic⁶⁰ and/or extrinsic⁶¹ aids to discover the purpose of legislation for proper interpretation and application to the matter at hand. In *Minister of Home Affairs v Fisher*,⁶² the Court relied on an array of interpretation aids for identifying the purpose of a provision including: the long title and preamble of the Act, the report of the select committee, and the debates in the House of Representatives. Also, purposive rule rejects the exclusionary rule⁶³, as such, no matter how evidence is obtained, it can be used by the courts to discover the purpose of an enactment where it relates to it.

It should be noted that over the years, courts all over the world have moved from strict construction of words to liberal construction of words. As such, the purposive rule of interpretation has been increasingly utilized by courts worldwide and is the general mode of interpretation in most European countries and the European court of Justice. Lord Denning as a strong advocate of purposive approach to interpretation of statute declared the literal method of interpretation to be out of date⁶⁴:

⁵⁹ E. A. Driedger. (n55) pg. 87.

⁶⁰ Intrinsic aids to interpretation are materials found within the statute that can help in interpreting the meaning and purpose if a provision of statute. E.g. preamble, schedule, long title, etc.

⁶¹ Extrinsic aids to interpretation are materials found outside the statute that can help in interpreting the meaning and purpose of a provision of statute. E.g. case law, dictionary, Hansard, international treaties, etc.

⁶² (1980) AC 319.

⁶³ Exclusionary rule mandates that evidence seized as a product of unlawful police activity, is not admissible in court.

⁶⁴ *Northman v Barnet Council* [1978] WLR 221

“The literal method is now completely out of date. It has been replaced by the approach which Lord Diplock described as the “purposive approach...” In all cases now in the interpretation of statutes, we adopt such a construction as will promote the general legislative purpose underlying the provision”.

In *United States v. American Trucking Ass’ns*⁶⁵, a group of truckers and common carriers sought an injunction requiring the Interstate Commerce Commission (ICC) to regulate the qualifications and hours of service of all employees in the motor carrier industry, not just those employees whose jobs affected public safety. The Court was asked to determine who was considered an "employee" under section 204(a) of the Motor Carrier Act. Because the statute did not define "employee," the Court turned to the legislative history and concluded that Congress did not intend for the ICC to have the authority to regulate all employees rather, only those employees "whose activities affect the safety of operation."

Similarly, In *Regina v Secretary of State for Health ex parte Quintavalle (on behalf of Pro-Life Alliance)*⁶⁶, the House of Lords expressly used a purposive approach to statutory interpretation to interpret the Human Fertilization and Embryology Act 1990. This Act was passed in response to medical developments in fertility treatment. In July 1978 the first child was born using in vitro fertilization techniques (where the egg is fertilized outside the mother’s womb). This prompted considerable ethical and scientific debate as to the social, ethical, and legal implications of these scientific developments. In 1982, a Committee of Inquiry was established under the chairmanship of Dame Mary Warnock and in the light of its report, the 1990 Act was passed. The Act aimed to regulate and outlaw certain practices involving the use of human embryos. However, at the time that the Act was passed, embryos could only be created by a process of fertilization with sperm.

⁶⁵ (1940) 310 U.S. 534.

⁶⁶ (2003) 2 AC 687.

After the Act was passed, a new scientific process was developed known as cell nuclear replacement (CNR). Under this process an embryo can be created without fertilizing an egg but by removing the nucleus from one egg and replacing it with another nucleus. In the Quintavalle case of 2003, the appellant, acting on behalf of the pressure group Pro-Life, argued before the House of Lords that because CNR was a new process, it was not covered by the 1990 Act and therefore the Human Fertilization and Embryology Authority did not have the authority under the Act to license research involving CNR. It pointed out that in section 1 of the Act, an embryo regulated by the Act is defined as ‘a live human embryo where fertilization is complete’ and that CNR does not involve a process of fertilization. This argument was rejected by the House of Lords which applied a purposive approach to interpreting the 1990 Act. Lord Bingham, while delivering his judgment explained thus:

“...at first reading, the Pro-Life construction has an obvious attraction; the Act is dealing with live human embryos ‘where fertilization is complete’, and the definition is a composite one including the last four words. But the Act is only directed to the creation of embryos *in vitro*, outside the human body⁶⁷. Can Parliament have been intending to distinguish between live human embryos produced by fertilization of a female egg and live human embryos produced without such fertilization? The answer must certainly be negative, since Parliament was unaware that the latter alternative was physically possible. This suggests that the four words were not intended to form an integral part of the definition of embryo but were directed to the time at which it should be treated as such . . . The crucial point . . . is that this was an Act passed for the protection of live human embryos created outside the human body. The essential thrust of section 1(1)(a) was directed to such

⁶⁷ Human Fertilization and Embryology Act 1990, Section 1(2)

embryos, not to the manner of their creation, which Parliament (entirely understandable due to the then current state of scientific knowledge) took for granted bearing in mind the constitutional imperative that the courts stick to their interpretative role and do not assume the mantle of legislator. However, I would not leave the matter there but would seek to apply the guidance of Lord Wilberforce quoted above in paragraph 10:

- a) Does the creation of live human embryos by CNR fall within the same genus of facts as those to which the expressed policy of Parliament has been formulated? In my opinion, it plainly does. An embryo created by *in vitro* fertilization, and one created by CNR are very similar organisms. The difference between them as organisms is that the CNR embryo, if allowed to develop, will grow into a clone of the donor of the replacement nucleus which the embryo produced by fertilization will not. But this is a difference which plainly points towards the need for regulation, not against it.
- b) Is the operation of the 1990 Act to be regarded as liberal and permissive in its operation or restrictive and circumscribed? This is not an entirely simple question. The Act intended to permit certain activities but to circumscribe the freedom to pursue them which had previously been enjoyed. Loyalty to the evident purpose of the Act would require regulation of activities not distinguishable in any significant respect from those regulated by the Act, unless the wording or policy of the Act shows that they should be prohibited.
- c) Is the embryo created by CNR different in kind or dimension from that for which the Act was passed? Plainly not as already pointed out, the organisms in question are, as organisms, very similar. While it is impermissible to ask what Parliament

would have done if the facts had been before it, there is one important question which may permissibly be asked: it is whether Parliament, faced with the taxing task of enacting a legislative solution to the difficult religious, moral and scientific issues mentioned above, could rationally have intended to leave live human embryos created by CNR outside the scope of regulation had it known of them as a scientific possibility. There is only one possible answer to this question, and it is negative. . . for these reasons I would dismiss the appeal with costs.”

Hence, a purposive approach to interpretation have been used to deliver judgments which if left to literal interpretation would likely amount to injustice.

A merit of purposive rule to interpretation of statute is that the rule is intended to enable judges to deal with situations that were unforeseen by legislature as such, the rule enables court to be flexible enough to adapt to changing societal needs. It also enables the intention of the legislature when drafting an enactment to shine through unlike in the application of literal rule. Furthermore, purposive rule enhances clarity and efficiency as at first glance, the court understands the intent of the legislature and the purpose of the legislation which makes it easier on courts to interpret laws faster and effectively.

Its demerits include the fact that courts are given too much power to develop the law, thereby performing the function of the legislature. Also, it encourages infringement of separation of power and there is increased uncertainty due to not easily discerning the intention of the law makers.

There are several other rules of statutory interpretation, however, this research limits itself to the above stated rules.

2.2 Legislative Drafting

Legislative drafting is a major instrument for the regulation of the economy, administration of justice and advancement of democracy⁶⁸. It is an art of transforming legislative intent into clear and concise written instruments that can be effectively implemented and interpreted by courts, government officials, and the public⁶⁹. It is also a specialized skill of translating policy objectives into legally binding and enforceable language, considering both the intended purpose and the potential impact on diverse stakeholders⁷⁰.

Legislation deals with legal rights and duties, and with powers and liabilities. That is, with legal relationships between various classes of persons in the community and between the State and the members of the community⁷¹. Drafting, then, is about settling these relationships in written law, so that those affected can conduct their activities in legal security⁷². What those relationships are to entail in a particular context is a matter of policy. The choice of policy is usually made by the client sponsoring the legislation and has to be confirmed sometimes with modifications, by the body authorized to give the instrument the force of law.⁷³ Therefore Legislative drafting can be defined as the translation of policy into formal written rules with legal backing.⁷⁴ It converts legal policies into legal rules.

⁶⁸ Paul Idornigie, 'Introduction to Legislative Drafting: The Qualities, Qualifications & Role of a Legal Draftsperson' (July, 2021). Available at <<https://paulidornigie.org/wp-content/uploads/2021/08/Introduction-to-Legislative-Drafting-Qualities-Qualifications-etc-Updated.pdf>> accessed on 11th January, 2023.

⁶⁹ Everycrsreport.com (n31).

⁷⁰ Onyekachi W. Duru, 'Legislative Drafting' available at < <https://www.linkedin.com/pulse/legislative-drafting-onyekachi-duru-esq/>> accessed on 11th January, 2024.

⁷¹ National Open University, 'Introduction to Legislative Drafting' (2006). Available at <https://nou.edu.ng/coursewarecontent/LED%20021.pdf> accessed on 11th January, 2024.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

Legislative drafting requires a deep understanding of legal principle, language and the legislative process. Good legislative drafting is essential to ensuring that laws are clear, enforceable, and consistent with societal needs.⁷⁵

2.2.1 Importance of Legislative Drafting

The world has been going through changes at a fast pace. In order for society not to leave law behind, law has to be dynamic, flexible, and ready to adapt to new circumstances so as to be relevant in society. This relevance is what makes legislative drafting important. Aside from the known fact that legislative drafting is the process of translating policies into formal written text which guides the activities of man, legislative drafting is the vehicle through which new laws which defines and regulates society are made. Legislation and the institutions created under it, are the principal instruments through which planned development is undertaken. For this development to be underway, effective laws have to be in place, and the creation of this laws are through legislative drafting.

2.2.2 Nature of Legislative Drafting

Legislative drafting is an institutionalized means of communication. Its distinction from other forms of legal drafting which may be easily altered or changed is that legislative drafting is more of a permanent enactment which stands on its own and speaks for itself without any form of assistance, elucidation or explanation from the drafter or draftsman.⁷⁶

⁷⁵ *Ibid.*

⁷⁶ Onyekachi W. Duru (70).

It is imperative that a great deal of care and diligence be exercised in drafting enactments to reduce as much as possible the probable difficulties and confusion that may befall the future administration and interpretation of enactments.

Thus, the legislative drafting process may be said to begin with the receipt of drafting instructions and ends with completion of the draft.

2.2.3 Imperative Steps in Legislative Drafting

For a good law to be drafted, a legislative drafters must observe some steps so as to produce a well drafted and effective law which will be useful to the public and the courts. These steps are:

- a) identifying the need for new laws or regulations based on social, economic, or political challenges;
- b) researching existing laws and regulations to ensure that the proposed legislation is consistent with the legal framework and does not conflict with existing laws;
- c) consulting with relevant stakeholders, which includes government officials, legal experts, and the public to gather input and feedback on the proposed legislation;
- d) drafting the text of the legislation, outlining the purpose and scope of the law, and specifying the rights and obligations of affected parties;
- e) reviewing and revising the draft legislation to ensure clarity, and consistency with legal principles and constitutional requirements;
- f) presenting the draft legislation to the appropriate legislative body for consideration and debate;

- g) making any necessary revisions to the legislation based on feedback and amendments proposed during the legislative process; and
- h) finalizing the text of the legislation and obtaining approval from the legislative body.

2.3 Historical Background of Interpretation of Statutes

The art of interpreting statutes enacted by legislative bodies, has a rich history, spanning centuries and evolving alongside legal systems themselves. This section explores the key phases and influences that have shaped how we understand and apply these rules of interpretation.⁷⁷

In early legal systems, such as those of Rome and Greece, the focus was on understanding the legislator's original intent. Jurists used methods like grammatical analysis and logical reasoning to discern the meaning of written laws.⁷⁸

In England, the common law tradition emerged, prioritizing precedent and judicial discretion. Judges interpreted statutes within the framework of existing common law principles, balancing the literal meaning with broader context and purpose.⁷⁹

2.3.1 Evolution of Statutory Interpretation

During the Middle Ages, formalized rules of interpretation began to emerge. Maxims like "expressio unius est exclusio alterius" (expressing one thing implies the exclusion of another) guided judges in deciphering ambiguous statutes.⁸⁰ The mischief rule gained prominence,

⁷⁷ Gaius, *Institutes of Justinian* (ed. & trans. J. Muirhead, 2nd ed., 1906) (discussing Roman legal interpretation based on original intent)

⁷⁸ Aristotle, *Nicomachean Ethics* (ed. & trans. T.H. Irwin, 2nd ed., 1999) (discussing Greek legal interpretation and reasoning)

⁷⁹ Blackstone, W., *Commentaries on the Laws of England* (Oxford University Press, 1765-1769) (emphasizing precedent and common law principles in English law)

⁸⁰ Coke, E., *Institutes of the Laws of England* (Clarendon Press, 1642) (expanding on rules of interpretation, including expressio unius)

requiring judges to identify the mischief the statute aimed to address and interpret it in a way that remedy that mischief.⁸¹

The Enlightenment ushered in a shift towards natural law concepts. Thinkers like Montesquieu emphasized the importance of clear and precise laws enacted by a sovereign legislative body.⁸² In the 19th century, legal positivism gained traction, advocating for a more literal and objective approach to statutory interpretation. Judges were seen as mere conduits, applying the clear meaning of the law without injecting personal interpretations.⁸³

In the 20th century, purposivism gained popularity.⁸⁴ This approach emphasizes understanding the purpose and objective of the statute, going beyond the literal meaning to consider the legislature's intent and surrounding context. Recent decades have seen renewed interest in originalism, focusing on the original intent of the legislators who enacted the statute.⁸⁵

Civil law systems, prevalent in Europe, often prioritize codified statutes and legislative intent.⁸⁶ However, judicial interpretation still plays a role, particularly in resolving ambiguities and gaps in the law.⁸⁷ The globalized legal landscape encourages cross-border legal dialogue and the sharing of interpretive techniques. Comparative legal study helps inform interpretation by shedding light on how different legal systems approach statutory meaning.⁸⁸

⁸¹ Heydon's Case, 3 Co. Rep. 7a (1584).

⁸² Montesquieu, C. de S., 'The Spirit of the Laws' (1748) (advocating for clear and precise laws enacted by a sovereign legislative body)

⁸³ Bentham, J., 'A Fragment on Government' (1776) (promoting a utilitarian approach to legal interpretation)

⁸⁴ Dworkin, R., *Law as Interpretation* (Princeton University Press, 1996) (defending a purposivist approach to statutory interpretation)

⁸⁵ Scalia, A., *A Matter of Interpretation: Federal Courts and the Law* (Princeton University Press, 1997) (championing textualism and originalism)

⁸⁶ Code civil (1804) (France) (illustrating a civil law system approach to statutory interpretation)

⁸⁷ Comparative Law: A Journal of International Law (Cambridge University Press) (providing examples of diverse interpretations across legal systems)

⁸⁸ Ibid.

The history of statutory interpretation is always expanding and evolving. This is due to the advances in legal theory, evolving societal values, and technological advancements which continue to shape how we interpret and apply statutes. It is noteworthy that throughout the development and evolution of statutory interpretation, there has always been a divide between textualism which proposes that the plain and ordinary mean of the text be applied strictly (literal; rule), and the broader context which includes the use of teleological approach (the purposive approach), the use of legislative intent, and the use of legislative history. All of which focuses more on the objective, and purpose of legislation as well as the intention of the lawmaker when enacting the legislation. The tension between adhering to the text and considering broader context remains a central debate, ensuring that the field of statutory interpretation will always be dynamic and intellectually stimulating.

CHAPTER THREE

LEGAL FRAMEWORK OF INTERPRETATION OF STATUTES AND ANALYSIS OF PURPOSIVE APPROACH TO INTERPRETATION OF STATUTES IN NIGERIA

Statutory interpretation is the key utilized by the judicial arm of government to understand legislation enacted by the legislative arm of government. This chapter enumerated and expatiated on the legal frameworks of statutory interpretation in Nigeria, as well as examined the use of purposive approach to interpretation of statutes in Nigerian courts.

3.1 Legal Frameworks of Statutory Interpretation

3.1.1 CFRN 1999 as Altered

The Constitution of the Federal republic of Nigeria, 1999 (as altered) is the supreme law of the land. It provides for the roles and functions of the judiciary. It has been noted that one of the functions of judiciary is to interpret law. Key provisions of the Constitution relating to statutory interpretation are:

- a) Section 6 of the Constitution of the Federal Republic of Nigeria 1999 (CFRN) vests the judicial powers of the Federation to courts for the Federation⁸⁹ and judicial powers of the State to courts for the State⁹⁰. This is the section of the Constitution that gives power to the courts to exercise judicial powers. As noted above, the powers and functions of the courts include hearing and adjudicating on matters brought before it, interpreting laws, etc. the right of the court to exercise above powers and more is due to the legal backing of section 6 of the Constitution.

⁸⁹ Constitution of the Federal Republic of Nigeria 1999 (as altered) sec 6(1).

⁹⁰ Ibid, sec 6(2).

- b) Section 232 of the Constitution provides that the Supreme Court shall, to the exclusion of other courts, have original jurisdiction in any dispute between the Federation and a state or between states if and in so far as that dispute involves any question (whether law or fact) on which the existence or extent of a legal right depends. This provision empowers the Supreme Court to hear any matter between governments. The matter could be based on facts which would require the court to determine the matter based on the facts of the case and judicial precedents or it could be based on law, which would require the court to interpret the law to be able to answer the question brought before the court. Consequently, it is seen that the Supreme Court is empowered to interpret laws.
- c) Section 233 of the Constitution provides inter alia that an appeal shall lie from the decisions of the Court of Appeal to the Supreme Court as of right where the ground of appeal involves questions of law alone..., decisions in any civil or criminal proceedings on questions as to the interpretation or application of the Constitution.... etc. This provision further buttresses the above section that the Supreme Court has the power to interpret laws of the land and the Constitution of the Federal Republic of Nigeria. The provisions enabling the Supreme court to interpret laws are replicated for all courts of the Federation⁹¹ and the states⁹² in chapter 7 of the Constitution.

3.1.2 Interpretation Act Cap I23 LFN 2004

The Interpretation Act is an Act enacted by the National Assembly to provide for the construction and interpretation of Acts and certain other instruments used in regulating human affairs. The Act defines certain words and provides for the usage of those words. For example, section 18 provides inter alia that “act” includes an omission, and reference to the doing of an act shall be construed

⁹¹ Ibid, sec. 239, 240, 241, 251, 254C, 257, 262, 267.

⁹² Ibid, sec. 272, 277, 282.

accordingly. The Interpretation Act is applicable to all enactments if the drafter does not intend a different meaning. Where the drafter intends for a word to mean differently from what is provided for in the Interpretation Act, the drafter specifically defines such word in the legislation. The Interpretation Act is used by the courts to interpret laws where such words are provided for in the Act and a contrary meaning is not provided for in the law to be interpreted. The Interpretation Act does not provide for a particular mode of interpretation to be adopted by the courts in interpreting statutes, it leaves that for the courts to determine.

3.1.3 Interpretation Laws of the States

Nigeria is a federation with a central government and state governments. Each state has its own laws which guide and regulate the affairs of its state. Just like there is an Interpretation Act for the whole federation, there are Interpretation laws of states. Notable among this state is Lagos state. Lagos State has Interpretation Law of Lagos State.⁹³ This law is a carbon copy of the Interpretation Act Cap I23 LFN, 2004. The law reproduces most provisions of the Federal Act. However, the Interpretation Law provides for the construction and interpretation of laws of Lagos State and certain other instruments. Therefore, whenever a court comes in contact with a law for Lagos State, the appropriate reference material to interpret such a law will be the Interpretation Law of Lagos State. The Interpretation Law of Kwara State⁹⁴ also provides similar provisions. It makes provisions for the construction of laws of Kwara State and of the terms and provisions usually adopted in such laws. The law just like the enactments stated above, also defines specific words which if provided in a law should be construed as such unless the law itself gives such a word a different meaning in its interpretation section. It is evident that although there are interpretation laws for each State, these laws are quite similar to the Interpretation Act for the federation.

⁹³ Interpretation Law of Lagos State, Cap I4.

⁹⁴ Interpretation Law of Kwara State, Cap I5.

3.2 Analysis of Purposive Approach to Interpretation of Statutes in Courts

Nigeria, just like USA, India, New Zealand, etc. have adopted the practice of purposive approach to interpretation of Statutes. However, it is still in its developing stages in Nigeria and so, not yet frequently and generally used. Nevertheless, the purposive approach has been fairly used in Nigeria. Udo Udoma JSC, in a case in the Supreme Court stated that⁹⁵:

“...where the question is whether the Constitution has used an expression in the wider or in the narrow sense, in my view, this court should whenever possible, and in response to the demands of justice, lean to the broader interpretation, unless there is something in the text or in the rest of the Constitution to indicate that the narrower interpretation will best carry out the objects and purposes of the Constitution. My Lords, it is my view that the approach of this court to the construction of the Constitution should be, and so it has been, one of liberalism...I do not conceive it to be the duty of this court so to construe any of the provisions of the Constitution as to defeat the obvious ends the Constitution was designed to serve where another construction equally in accord and consistent with the words and sense of such provisions will serve to enforce and protect such ends.”

The above statement by Justice Udoma emphasizes the point that a Judge in some circumstances, need to look further into the purpose of a law even where the provision of the law is clear on its face. There are situations where provisions of legislations need a deeper dive into its meaning and purpose so as not only to satisfy the original intentions of the draftsman but also ensure that the provision being interpreted aid in serving justice.

⁹⁵ Nafiu Rabiu v. The State (1981) 2 N.C.L.R. 293, 326

In the case of *PDP v Mohammed & Ors*,⁹⁶ Abiru JCA adopted the following previous rulings predicated on interpretation of statutes as follows:

"It is trite that in the interpretation of statutes, a Court must not give an interpretation that would defeat the intention and purpose of the law makers, and it should adopt a holistic approach and interpret the provisions dealing with a subject matter together to get the true intention of the law makers - *Abia State University, Uturu Vs Otsi* (2011) 1 NWLR (Pt 1229) 605, *Ayodele Vs State* (2011) 6 NWLR (Pt 1243) 309, *National Union of Road Transport Workers Vs Road Transport Employers Association of Nigeria* (2012) 10 NWLR (Pt 1307) 170, *Attorney General, Federation Vs Attorney General, Lagos State* (2013) 16 NWLR (Pt 1380) 249. Also, inclusive in the principles governing construction of statutes is the need for Courts to adopt a purposive and creative approach. Courts must interpret statutes by implication to give effect to the true intention of the law makers - *Abdulraheem vs Olufeagba* (2006) 17 NWLR (P 1008) 280 at 355, *Peoples Progressive Alliance vs Saraki* (2007) 17 NWLR (Pt 1064) 453. The purposive approach is an approach to statutory and constitutional interpretation under which common law courts interpret an enactment in the light of the purpose for which it was enacted. It is essential that in interpreting the words of a statute, the Court must consider the object of the statute - *Elabanjo vs Dawodu* (2006) 15 NWLR (Pt 1001) 76 at 138H. The Court must guide itself with the essence of a provision in giving meaning to words of that provision. Once an interpretation meets the purpose of the provision of an enactment, then it is fine, and it is irrelevant that other

⁹⁶ (2011) LCN/4939(CA).

possible interpretations of the provision exist - *Rivers State Government vs Specialist Konsult* (2005) 7 NWLR (Pt 923) 145."

Asides from the above cases, there are some other cases in which the Nigerian courts utilize the purposive rule of interpretation to determine cases and give effect to the intention of the legislation. This is because the Courts have realized that for the law not to be static and redundant, it must move together with societal changes. Consequently, Nigerian courts have been creative in interpreting statutes to ensure that justice is served, and fairness is achieved. In fact, Judges are encouraged to even go to the extent of creating new doctrines where the justice of the matter requires it. This was the position in *Amaechi v INEC*⁹⁷ where it was stated:

“The primary duty of the courts is to do justice to all manner of men who are in all matters before it. It then seems to me clear that when the court sets out to do justice to cover new conditions or situations placed before it, there is always that temptation, a compelling one, to have recourse to equitable principles. A court, in the exercise of its equitable jurisdiction must be seen as a court of conscience and Judges who dispense justice in this court of law and equity must always be ready to address new problems and even create new doctrines where the justice of the matter so requires.”

As such, in the case of *Okonkwo v. A.G of Anambra State*⁹⁸, the court applied the purposive rule of interpretation to give effect to the intention of the legislature in enacting a law relating to the disqualification of certain people from holding office. Also, in the case of *A.G Bendel v A.G Federation*⁹⁹ the Supreme Court used the purposive rule of interpretation to interpret the provisions

⁹⁷ (2008) 5 NWLR (pt. 1080) 227 at 451.

⁹⁸ (1981) 1 NCLR 218.

⁹⁹ (1981) 10 SC 1.

of the Constitution to determine the scope of the powers of the Federal and State governments. In the case of *A.G Ogun State v A.G Federation*¹⁰⁰, the court applied the purposive rule of interpretation to interpret the provisions of a federal law to determine the rights and obligations of the parties involved in a dispute over the ownership of certain land. Furthermore, in the case of *Adegbite v A.G Ogun State*¹⁰¹, the court applied the purposive rule of interpretation to determine the meaning and scope of certain provisions in a state law relating to the establishment of a university. Likewise, in the case of *Ojukwu v A.G of Lagos State*¹⁰², the court applied the purposive rule of interpretation to interpret the provisions of a state law relating to the acquisition of property to determine the rights of the parties involved in a dispute over the ownership of a piece of land. In the case of *Afolayan v Oba Adeyemi II*¹⁰³, the court applied the purposive rule of interpretation to interpret the meaning of the term “judicial decision”. The court held that the term should be interpreted in a way that would give effect to the intention of the legislature. Finally, in the case of *A.G Federation v Abubakar*¹⁰⁴, the Supreme Court applied the purposive approach to interpretation, stating that the court should strive to avoid an interpretation that would defeat the main purpose of the statute. The Supreme Court puts it thus¹⁰⁵:

“It has been said in one of the briefs before us that the case at hand is, by every standard, a novel one. I entirely agree; given the facts of this case and the little research I have carried out, I have not come across any judicial decision relating to the peculiar facts of this case. But no legal problem or issue must defy legal solution. Were this not to be so, society as usual will continue to

¹⁰⁰ (1982) 2 NCLR 244.

¹⁰¹ (1986) 1 NWLR (pt. 18) 669.

¹⁰² (1985) 2 NWLR (pt. 6) 293.

¹⁰³ (1983)

¹⁰⁴ (2007) 10 NWLR (pt 1041) 171-172.

¹⁰⁵ *Ibid*

move ahead. Law, God forbid, will then remain stagnant and consequently become useless to mankind. With this unfortunate consequence at the back of his mind, a Judge, whenever faced with a new situation which has not been considered before, by his ingenuity regulated by law, must say what the law is on that new situation; after all, law has a very wide tentacle and must find solution to all man-made problems. In so doing, let no Judge regard himself as making law or even changing law. He (the judex) only declares it law after he considers the new situation, on principle and then pronounces upon it. To me, that is, the practical form of the saying that the law lies in the breast of the Judges.”

From the above cases, it is observed that the courts are no longer limited to the four corners of the statute. Nigerian courts have progressed from strictly applying the literal rule of interpretation to applying the rule of interpretation that best achieves fairness and justice in a matter. Courts are now free to examine any source that aids the interpretive process, even if the statutory language has an apparently plain and literal meaning¹⁰⁶.

However, it is noted that where a statute has plain and literal meaning, the courts should construe the words of the statute based on its plain and literal meaning unless such construction will lead to ambiguity or will cause injustice or unfairness in a matter.

¹⁰⁶ Sand & Gravel Co. v. United States, 278 U.S. 41, 48 (1928).

3.3 Impact of Purposive Approach to Interpretation of Statutes on Legislative Drafting in Nigeria

There is a linkage between the style or practice adopted by a drafter when drafting legislation and the approach utilized by a judge when interpreting a legislation. Judges adopt a rule of interpretation based on the style of drafting in an enactment or legislation. In the same vein, drafting styles are influenced by the interpretation practice generally adopted by courts.

In the report of the English and Scottish Law Commissions¹⁰⁷, it was noted that:

“If defects in drafting complicate the rules of interpretation, it is also true that unsatisfactory rules of interpretation may lead the draftsman to an over-refinement in drafting at the cost of the general intelligibility of the law.”

In view of this, it is necessary that drafters take into cognisance the rules of interpretation and the judicial approaches to interpreting legislation when drafting an enactment. It is true that legislation is not flawless and might have one ambiguity or the other due to the error of the drafter. However, where the drafter has put in place all necessary measures to ensure that the legislation is interpreted in a certain way by the courts, the result will be an interpretation that serves justice to the matter at hand.

It has been advised that drafters should draft statutes in the form of general principles along with plain language and drop the unnecessary detailed legislation to direct the court towards adopting a purposive approach to interpretation instead of the literal approach. The Renton Committee favoured this approach, contending that it would lead to greater simplicity and clarity in statute.¹⁰⁸

¹⁰⁷ English and Scottish Law Commissions Report of Interpretation of Statutes (1969) para. 5.

¹⁰⁸ Renton Report, *op cit.* fn. 3 at para. 10. 13.

However, there are demerits of drafting statutes in general principles and leaving the courts to fill the gaps with a purposive interpretation as it would divert the power of law making to the judiciary. Also, the details which is missing in the principal legislation will be provided for in subsidiary legislation or case law. Either way, the citizens who are to read the law will have to gather all related legislations to totally understand the provisions of the enactment as a whole.

The best method of connecting a judicial approach to interpretation of statute to legislating drafting is to incorporate such judicial practice in the legislation. As such, for judges to easily interpret legislation in the purposive style, the legislation itself should incorporate mechanisms that promote the purposive rule of interpretation. Therefore, drafters should utilise the purpose clause in legislation. It has been observed that there is no legislation in Nigeria that employs the use of purpose clause¹⁰⁹. The lack of employing the purpose clause in legislations in Nigeria does not in any way help the courts in promptly adopting the purposive rule of interpretation of statute.

It is necessary for drafters to make clear the purpose of legislation to enable courts to interpret the provisions in line with the stated purpose. Thornton stated that:

“Now that a purposive approach to statutory construction is routinely taken by the courts in many jurisdictions, there is increased obligation on drafters to make the aim and object of legislation clear on the face of it.”¹¹⁰

At this juncture, it is necessary to explain what is meant by purpose clause. A purpose clause is a simple statement of intent that appears at the beginning of a part or sub-part either as a stand-alone

¹⁰⁹ T.C. Jaja, ‘Judicial Interpretation of Legislation as a Source of Rules of Legislative Procedure and Legislative Drafting: A Comparative Study of United Kingdom and Nigerian Court Cases on Legislative Drafting’ (2016) 42 Available at: <http://dxdoi.org/10.12775/CLR.2015.007> accessed on 25th December, 2023.

¹¹⁰ Thornton, G.C. *Legislative Drafting* (London: Butterworths, 1996).

section or as part of another section.¹¹¹ The purpose clause is used to help the reader interpret the provision or the entire enactment. It is a provision that states the social, economic, or political objective to be achieved where the provisions of the statute are implemented by those authorized to perform that function.¹¹²

Providing a purpose clause in a legislation will enable the drafter and reader to easily discern the intention of the legislature, the meaning behind the words of the statute, and the purpose of the legislation. Purpose clauses are increasingly used in legislation for several reasons which includes communication reasons as it makes the basic purpose of a legislation clear to a reader before they get into the detailed provisions to help them understand and apply the legislation. It also helps to set the direction of a legislation and to set a basis for implementing, monitoring, and assessing the performance of an enactment and to guide the interpretation of the legislation.¹¹³ In simple terms, purpose clause gives an insight to the intention of a legislator, provides guidance to the Executive, explains the legislation to the public and assists the courts in interpreting provisions of a statute¹¹⁴.

In several countries of the world, the use of purpose clause has been incorporated into their drafting style as it aids interpretation of statute. It is imperative for Nigeria to join this movement and adopt the purpose clause into our in-house drafting style. This is even more necessary due to the routine use of purposive rule of interpretation of statutes in Nigerian courts recently. As the courts have moved with the times and has developed to the point of utilizing other rules of interpretation of

¹¹¹ National Archives, Purpose Clause (March 1st, 2022). Available at < <https://www.archives.gov/federal-register/write/legaldocs/purpose.html#:~:text=Include%20a%20purpose%20clause%20only%20when%20necessary,%20Use,clause%2C%20draft%20it%20after%20you%20draft%20your%20regulations.>> accessed on 27th December, 2023.

¹¹² Berry, D. 'Purpose Section: Why they are a Good Idea for Drafters and Users' (2011). Available at <http://www.calc.ngo/sites/default/files/paper/Berry_May2011.pdf> accessed on 27th December 2023.

¹¹³ Legislation Design and Advisory Committee, Designing Purpose Provisions and Statements of Principle (June 30th, 2022). Available at < [Designing purpose provisions and statements of principle | The Legislation Design and Advisory Committee \(ldac.org.nz\)](https://www.ldac.org.nz/designing-purpose-provisions-and-statements-of-principle)> accessed on 27th December, 2023.

¹¹⁴ T.C. Jaja (2016) (n57) p. 40.

statute aside from the three traditional rules of interpretation, the drafters should also be flexible and adapt to the changes in the society and adopt clauses that will enable the courts ascertain the right meaning of the provisions of statutes. To this extent, the purpose clause will greatly aid in the interpretation process and should be incorporated into the Nigeria drafting style or manual.

It is important to note however, that the purpose clause should not necessarily be used for every legislation. Its use will be determined by the type of legislation and the content of the legislation. Legislations that are difficult, complex, long and/or comprises of several parts like the Armed Forces Act¹¹⁵ and the Companies and Allied Matters Act¹¹⁶ may require a purpose clause to aid the readers in understanding the purpose of the provisions and perhaps, each part of the statute. However, statutes like the Acts Authentication Act¹¹⁷ does not require a purpose clause due to the type of legislation it is and its content. Usually, a purpose section provides the policy objectives of the whole statute, but for statutes that are complex and comprising of several parts, a statement declaring the purpose of each part may be very useful. However, where a statute contains a general-purpose provision and purpose provisions for different segments of the statute, it is important that the latter be consistent with the former.

Another important mechanism that will facilitate the use of purposive rule of interpretation is the objective clause. The objective clause is not used too often in Nigeria's drafting style. The clause helps in enabling the reader easily discern the aims and goals of the legislation. Where an enactment contains a purpose clause and an objective clause, the overall aim and purpose of the law should be easily understood by the courts to enable easy interpretation of the law.

¹¹⁵ CAP. A20, Laws of the Federation of Nigeria, 2004.

¹¹⁶ No. 3, 2020.

¹¹⁷ CAP. A2, Laws of the Federation of Nigeria, 2004.

Although it is argued by some writers that the objective clause has no legal backing and cannot be relied on in court, it has been observed through several pieces of literature and judgments that provisions of a statute after the enactment clause can be relied upon by the courts. As such, the courts can rely on the purpose clause and objective clause in interpreting a provision of a statute if need be.

It should be noted that the courts will always be faced with issues of interpretation of statutes no matter how well-drafted a legislation is due to inter alia, the need of practicing lawyers to try to present the law in a way that will favour their clients. Also, drafters should not be bothered with rules of interpretation when drafting as it is not their area of expertise nor are they the ones interpreting the law, their job is to draft a law that will be as well-drafted as possible and free from errors as possible. However, even though they are not to be bothered with the rules of interpretation while drafting, it has been observed that drafting techniques have been conditioned by the basic rules of interpretation and as such, drafters can incorporate drafting mechanisms that will be embedded in their drafting style. In this particular case, where a drafter believes that legislation requires purpose clause in the legislation, such a drafter should insert it into the legislation as it has been observed that judges construe legislation according to the existing rules of interpretation and the existing drafting techniques presented in the law. Consequently, where a law is intended to deviate from the current drafting techniques, provisions should be made to that effect by expressly indicating so in the law, for instance, by inserting a purpose clause or an objective clause along with the usual marginal note, and the rarely used application clause so as to enable the legislation express itself clearly as to its meaning, intent and purpose.

In support of the Purpose Clause, Adem¹¹⁸ noted that:

¹¹⁸ D.T.Adem, *Legislative Drafting: Topical Approach* (South Africa: Lexis Nexis, 2015).

“Since the Courts now adopt a purposive approach to interpreting the provisions of legislation and thus take into account the intention behind the legislation, a purpose clause is an extremely useful way for a drafter to give guidance for future disputes...”¹¹⁹

Section 1 of the Environmental Impact Assessment Act,¹²⁰ is a good example of the object clause in Nigeria. It provides for Goals and objectives of environmental impact assessment. Furthermore, section 2 of the National Theatre and the National Troupe of Nigeria Board Act,¹²¹ which provides for Objectives of the Act is also a very good example of an Act that states the purpose of the Act clearly. Such laws will enable the courts to easily interpret them in line with their purpose thereby adhering to the intention of the law makers, the purpose of the law and also ensuring that justice and fairness in relation to the matter to be determined is achieved.

In line with the above, there is need for the judges and legislative drafters to embark on continuous legal education in relation to interpretation of statutes and legislative drafting respectively. There is lack of adequate training for judges training and even less training and attendance of seminars on statutory interpretation. Due to this, Nigerian judges are not conversant with current statutory practices in the modern world. There is also little information on the topic of purposive approach to statutory interpretation and legislative intent in courts library. Legislative drafters in Nigeria are also not up to date with the most current international best practices. The lack of training of judges and drafters impede the progress of the usage of purposive rule to statutory interpretation in Nigeria.

¹¹⁹ *Ibid.*

¹²⁰ Cap. E12 LFN 2004.

¹²¹ Cap. N80 LFN 2004.

CHAPTER FOUR

LESSONS FROM OTHER JURISDICTIONS ON UTILIZING PURPOSEIVE APPROACH TO INTERPRETATION OF STATUTES

As much as there are several countries in the world, there are varying methods of interpreting statutes in such countries. This chapter partook in a cross-country analysis, examining the interpretation styles of other jurisdictions and obtaining lessons which Nigeria can learn from and adopt. The countries examined in this chapter are the United Kingdom, France, Canada, and South-Africa.

4.1 The United Kingdom

The United Kingdom is known as the prototype of all other common law countries and some traditions and practices utilised by other common law countries were adopted from the practices of the United Kingdom. Consequently, the United Kingdom as the archetype of common law in relation to interpretation of statute is discussed and its predominant rules of interpretation are noted.

In the United Kingdom (UK), the two important things to note about the mode of operation of the country is the supremacy of the parliament and the bindingness of judicial precedent.¹²² Statutory interpretation first became widely used in common law systems with UK being the exemplar. In the UK, Parliament did not have a comprehensive code of legislation, therefore, it was left to the courts to develop the common law¹²³. Consequently, the courts adjudicated matters, gave reasons

¹²² Ozgur Beyazit, 'Interpretation and Law-making by the Courts in English Common Law System' (2014). Available at <<https://dergipark.org.tr/tr/download/article-file/155623>> accessed on 31st December 2023.

¹²³ *Ibid.*

for the decision arrived at by the courts, and the decision or judgment became binding on lower courts.¹²⁴

In creating judicial precedents, a particular interpretation of an enactment would also become binding. It became necessary to introduce a consistent framework for statutory interpretation. In relation to this, the English courts developed three main rules of interpretation along with several other minor rules to assist them in the task. The three main rules developed by the English courts are the Literal rule, the Golden rule and the Mischief rule. These rules have been discussed above; it is however important to note that although UK adheres to the three traditional rules of interpretation, English courts give themselves room for deviation from the traditional rules so as not to cause injustice by strictly following those rules.

In 1973 when the United Kingdom became a member of the European Economic Community, the purposive style of interpretation utilised by the European Union (EU) slowly seeped into the interpretation style of the UK. This is because the UK courts were required to utilise the purposive rule of interpretation when deciding on EU matters. This unintentionally made the UK slowly get accustomed to the purposive approach and it went on to utilise it in interpreting its domestic laws. The UK had earlier on attempted to use purposive rule of interpretation, especially Lord Denning who was at the fore front of promoting the rule. However, it was not accepted by most judges at the time because it was believed to usurp the powers of parliament in relation to its law-making powers. However, with the UK joining the European Economic Community, it had to adapt to the practices of the EU which includes the adoption of the purposive approach to interpretation of

¹²⁴ Nantap D. Benshak, 'An Examination of the Attitude of the Nigerian Courts to the use of Intrinsic and Extrinsic Aids in the Interpretation of Statutes' (2022). Available at <
<https://ir.nilds.gov.ng/bitstream/handle/123456789/983/upload.pdf?sequence=1&isAllowed=y>> accessed on 31st December, 2023.

statutes. This is illustrated in the case of *Pickstone v Freemans Plc*¹²⁵. In this case, Miss Pickstone brought a claim against her employer under the Equal Pay Act 1970. She was employed as a warehouse operative and was paid the same as male warehouse operatives. However, Miss Pickstone claimed that the work of the warehouse operatives was of equal value to that done by male warehouse checkers who were paid £1.22 per week more than they were. The employers argued that a woman warehouse operative was employed on like work to the male warehouse operatives, so she could not bring a claim under section 1(2) (c) of the 1970 statute for work of equal value. This was a literal interpretation of the 1970 statute. The House of Lords decided that the literal approach would have left the United Kingdom in breach of its treaty obligations to give effect to an EU directive. It therefore used the purposive approach and stated that Miss Pickstone was entitled to claim based on work of equal value even though there was a male employee doing the same work as her.

Also, in the case of *Pepper v Hart*¹²⁶, the House of Lords had to decide whether a teacher at a private school had to pay tax on the perk he received in the form of reduced school fees. The teacher sought to rely upon a statement in Hansard made at the time the Finance Act was passed in which the Minister gave the exact circumstances as an example of where tax would not be payable. Previously, courts in the UK were not allowed to refer to Hansard while interpreting a statute.¹²⁷ The House of Lords departed from the case of *Davis v Johnson* which rejected the use of Hansard and took a purposive approach to interpretation holding that Hansard may be referred to and the teacher was not required to pay tax on the perk he received. Lord Griffith noted that¹²⁸:

¹²⁵ [1989] AC 66, 3 WLR 265.

¹²⁶ [1993] 3 WLR 1032.

¹²⁷ *Davis v Johnson* [1978] 2 WLR 553.

¹²⁸ *Pepper v Hart* [1992] 3 WLR 1032.

“The days have passed when the courts adopted a literal approach. The courts use a purposive approach, which seeks to give effect to the purpose of legislation and are prepared to look at much extraneous material that bears upon the background against which the legislation was enacted.”

Also, in reference to the use of Hansard, Lord Broen Wilkinson observed¹²⁹:

"My Lords, I have come to the conclusion that, as a matter of law, there are sound reasons for making a limited modification to the existing rule (subject to strict safeguards) unless there are constitutional or practical reasons which outweigh them. In my judgment, subject to the questions of the privileges of the House of Commons, reference to Parliamentary material should be permitted as an aid to the construction of legislation which is ambiguous or obscure or the literal meaning of which leads to an absurdity. Even in such cases references in court to Parliamentary material should only be permitted where such material clearly discloses the mischief aimed at or the legislative intention lying behind the ambiguous or obscure words. In the case of statements made in Parliament, as at present advised I cannot foresee that any statement other than the statement of the Minister or other promoter of the Bill is likely to meet these criteria."

Although the use of purposive approach to interpretation of statute had slowly been incorporated into the United Kingdom's practice of interpreting statutes through its compliance with EU's laws and treaties, the UK in 2020 left the European Union, as such, there grows the worry that the UK will revert to its old ways of mainly utilising the three traditional rules of statutory interpretation.

¹²⁹ *Ibid.*

Fortunately, the European Union (Withdrawal) Act 2018 ensured that on 31st December 2020 at 11pm, UK laws implementing EU law, as well as directly effective provisions of EU law became a new category of domestic law called ‘retained EU law’. Furthermore, section 6(3) of the European Union (Withdrawal) Act of 2018 provides that UK courts should interpret retained EU law in accordance with any retained caselaw and any retained general principles of EU law and where retained EU law is modified by subsequent domestic enactments, section 6(6) provides that the general interpretative instruction under section 6(3) continues to apply in respect of a now-modified retained EU law norm “if doing so is consistent with the intention of the modifications”. These provisions ensure that the UK will continue to utilize the purposive rule of statutory interpretation to matters relating to the retained EU law.

It is hopeful that as the rule is being applied to matters relating to the retained EU law, the courts will also apply the rule to other cases in which the purposive approach will provide the best result in terms of fairness and justice in the matter.

Lessons for Nigeria:

While the legal systems of Nigeria and the United Kingdom have distinct features, Nigeria can certainly learn valuable lessons from the UK's rules of statutory interpretation. Here are some key areas:

1. Moving Beyond the Literal Rule:

Both countries employ the literal rule, giving words their plain meaning. However, the UK legal system allows for greater flexibility in moving beyond the literal rule when it leads to absurd or unjust outcomes. This promotes purposive interpretation, focusing on the intent of the legislation

and its broader context. Nigeria could benefit from adopting a more nuanced approach, using extrinsic materials like debates and committee reports to understand legislative intent.¹³⁰

2. Balancing Stare Decisis with Evolution:

The UK's respect for stare decisis (precedent) ensures consistency but can sometimes hinder flexibility. However, the doctrine of distinguishing allows judges to differentiate rulings based on factual differences, and the House of Lords can overrule outdated precedents. Nigeria could benefit from a similar balanced approach, maintaining respect for precedent while allowing for necessary evolution and adaptation to changing societal needs.¹³¹

3. Developing Clearer Drafting Techniques:

The UK Parliament has made efforts to improve legislative drafting, using concise language and avoiding ambiguity. This reduces the need for complex interpretation and leads to clearer laws. Nigeria could benefit from similar initiatives, such as establishing a central drafting unit with expertise in legislative language.

4. Harmonizing Common Law and Customary Law:

Nigeria's dual legal system, with common law alongside customary law, creates challenges in interpretation. The UK's experience in recognizing and incorporating unwritten custom into codified law could be instructive, promoting greater coherence and fairness in Nigerian legal practice.¹³²

¹³⁰ S. A. Akpomudje, *Judicial Interpretation of Statutes in Nigeria: A Comparative Analysis* (Malthouse Press, Lagos, 2010).

¹³¹ O. J. Ezeokonkwo, 'Stare Decisis in Nigeria: Towards a Principled Application' *Journal of Public Law and Administration* [2011] (3) (1-22).

¹³² B. O. Nwabueze, 'Harmonization of Laws in Nigeria: An Unfinished Agenda' *University of Lagos Law Review*, [2014] 34(1), 1-32.

5. Enhancing Judicial Training and Transparency:

The UK judiciary provides extensive training on statutory interpretation, and judgments are typically well-reasoned and accessible to the public. This fosters public trust and understanding of the judicial process. Nigeria could benefit from similar investments in judicial training and communication strategies to promote public confidence in the law.¹³³

4.2 France

France operates the Civil Law legal system which is the opposite of the English Common Law system. Unlike the United Kingdom where most of its laws are from customs and traditions and not particularly in a single written law, France legal system is based on written laws in the form of statutes and codes. As a result of France laws being written, and the acceptance that drafters are humans who are susceptible to errors, the French courts, Cour de Cassation and Conseil d' Etat, heavily rely on statutory interpretation¹³⁴.

Until 1837, French judges referred questions of interpretation to the legislature, but this ceased for reasons of lack of impartiality. It appears that until the end of the 19th century, the literal approach prevailed, which focused on the legislative intent to be found in the text with reliance on logical reasoning methods to resolve any difficulties.¹³⁵ By the end of that century, the courts observed that it was difficult to strictly comply with literal interpretation on all matters and this led to the courts branching out and adopting the purposive approach to interpretation.¹³⁶ The reason for the

¹³³ Sumption, Lord D. J. 'The Relevance of the UK Supreme Court to Foreign Jurisdictions' *The Law Quarterly Review*, [2012] (128) (2) 369-400.

¹³⁴ Gerard Carney, 'Comparative Approaches to Interpretation in Civil law and Common Law Jurisdictions' *Statute law Review* [2015] (36)(1) 50. Available online at <doi:10.1093/slr/hmu019> accessed on 3rd January 2024.

¹³⁵ CM Germain, 'Approaches to Statutory Interpretation and Legislative History in France' *Duke Journal of Comparative & International Law* [2003] (13) 198.

¹³⁶ Gerard Carney (n134) p. 51.

change in reasoning arose due to provisions becoming obsolete on account of the industrial revolution and other social, economic, and political changes in the country.¹³⁷

French judges are mandated to give decisions in every circumstance irrespective of whether the law is silent on the matter or not as failure to give a decision may result in prosecution of the Judge as provided in Article 4 of the Civil Code.¹³⁸ Also, the French Civil Code does not provide any general rules of statutory interpretation, unlike the Civil Code of Louisiana of 1870 Articles 13–21 or the Common law jurisdictions such as Australia which have enacted an Acts Interpretation Act to supplement the common law rules of statutory interpretation. To resolve this difficulty, the French courts apply two basic methods to interpret enactments. These methods are the logical interpretation and the teleological approach.

Logical Interpretation

This method entails the courts giving full supremacy to the plain and ordinary meaning of the provisions of an enactment. The method suggests that where the statute is clear, plain, or unambiguous, and no absurdity arises in its application in the case, the court must apply it literally.¹³⁹ However, when an absurdity arises, the court will depart from the literal interpretation to avoid the absurdity. Also, if the language is ambiguous, that is, susceptible to more than one interpretation, then the court may adopt the logical interpretation approach, where it considers the context of the provision in the light of the statute as a whole and its relationship with the other branches of the Law, to maintain the coherency and completeness of the legal system.¹⁴⁰ Where literal interpretation offers no solution, the court may adopt analogical reasoning. This arises under

¹³⁷ *Ibid.*

¹³⁸ French Code 1804. Available at http://files.libertyfund.org/files/2353/CivilCode_1566_Bk.pdf accessed on 1st January, 2024.

¹³⁹ Gerard Carney (n134) p.52.

¹⁴⁰ Peter de Cruz, *Comparative Law in a Changing World* (2nd edn Cavendish Publishing Ltd, 1999).

Article 4 of the French Civil Code, whereby a court is required to decide a case even if the code provides no answer.¹⁴¹

Teleological Approach

This approach was advocated for by Francois Gény in his book, *Methode d'Interpretation et Sources en Droit Prive Postif* in 1919, in which he posited that the social objective of an enactment should be the focus of the courts when deciding a matter.¹⁴² Francois explained that the teleological approach enables the court to extend the code provisions to situations that were not contemplated at the time of enactment, thereby ensuring the code's application to changing social and economic conditions. Since social needs are constantly evolving, this approach gives the judge the leverage to adapt the text of a legislation to the social needs of the time based on research on what the thought of the Legislature will be at present time. This method advocates for the identification of the social purpose or objective of a piece of legislation in interpreting its provisions.¹⁴³ In support of this method, M. Ballot-Beaupré, the first President of the Cour de Cassation noted:

“One must not search obstinately for the ideas of the author of the code, as they were a hundred years ago, when they wrote such provision; the judge must ask himself what those ideas would be if the same provisions were to be written by them today; he must tell himself that, on account of all the changes that, for a century, have occurred in ideas, in

¹⁴¹ French Code 1804 (n138).

¹⁴² Gerard Carney (n134) p.52.

¹⁴³ Claire M. Germain, *Approaches to Statutory Interpretation and Legislative History in France* (2003) Available at <<https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1233&context=facultypub>> accessed on 1st January, 2024.

habits . . . justice and reason order us to adapt liberally, humanely, the text to reality and to the demands of modern life.”¹⁴⁴

In present times in France, the courts still try to apply the logical approach when interpreting the codes. However, due to the increasing change and development in society, the courts lean more towards the teleological approach which can also be referred to as the purposive approach to interpretation of statutes. In summary, the various methods utilized by French judges to decide cases are listed below¹⁴⁵:

- (a) When a text is clear, it should be applied and not interpreted unless an absurd result will follow.
- (b) When a text is ambiguous or obscure, courts should look for the will of the legislature by examining the text with care and studying commentary written about it.
- (c) If the study is insufficient, courts go to the travaux preparatoires¹⁴⁶ to discover the legislature’s thinking.
- (d) When a text does not directly provide the solution for a dispute, judges need at least to start with a text to situate the rule that they will design.
- (e) If the legislative history will cause confusion, or the law is too old, the judge will look at other considerations and use what the scholarly writers call the teleological interpretation method.

Thus, in recent times, the French courts rely on the Logical approach when the enactment is clear on its surface and the enactment is recent while the courts rely on the Teleological approach when

¹⁴⁴ DN MacCormick and RS Summers, *Interpreting Statutes: A Comparative Study* (Dartmouth Publishing Company Ltd, 1991).

¹⁴⁵ Claire M. Germain (n143). Pg. 201-202.

¹⁴⁶ Travaux preparatoires are the documentary evidence of the negotiation, discussions, and drafting of a final treaty text.

the text is old, and the legislature has not expressly delivered its intention on the surface of the enactment.¹⁴⁷

Lessons for Nigeria:

While Nigeria and France have distinct legal systems (common law vs. civil law), valuable lessons can be gleaned from France's approach to statutory interpretation. Here are some key areas:

1. Emphasis on Legislative Intent:

France: Interpretation prioritizes legislative intent. Parliamentary debates, preparatory works, and reports help understand the law's purpose and context.¹⁴⁸ While common law focuses on the literal meaning of text, Nigeria can benefit from considering legislative intent alongside textual analysis, leading to more informed interpretation and avoiding unintended consequences.

2. Purposive and Teleological Interpretation:

France: Interpretation aims to achieve the law's purpose, considering its broader social and economic context. The "esprit de la loi" (spirit of the law) plays a crucial role.¹⁴⁹ Adopting a more purposive approach in Nigeria, especially in dynamic areas like technology or commerce, could ensure laws remain relevant and effective in evolving contexts.

3. Use of Jurisprudence and Doctrine:

Judges in France heavily rely on legal scholars and established legal doctrines to guide interpretation. Consistency and predictability are emphasized.¹⁵⁰ In Nigeria, while precedent plays

¹⁴⁷Claire M. Germain(n143). Pg. 202.

¹⁴⁸ Bergel, J. L., *Méthodologie juridique* (Presses Universitaires de France, Paris, 2013).

¹⁴⁹ *Ibid.*

¹⁵⁰ M. Lasser, 'Judicial Deliberations and Legislative Intent' [*The Yale Law Journal* [2015] (125) (3) 421-492.

a role, the country could benefit from a more structured system of legal doctrines and academic contributions to inform judicial interpretation, fostering greater coherence and legal certainty.

4. Role of Constitutional Review:

In France, the Conseil Constitutionnel reviews laws for constitutionality before enforcement. This ensures statutes align with fundamental principles.¹⁵¹ In Nigeria strengthening judicial review powers, perhaps through a dedicated constitutional court, could enhance compliance with fundamental rights and principles, ensuring laws are interpreted within constitutional boundaries.

5. Transparency and Accessibility of Interpretation:

In France, judgments are typically well-reasoned and publicly accessible, promoting transparency and public understanding of legal reasoning.¹⁵² Enhanced transparency in judicial decision-making, through clear and accessible judgments, could improve public trust in the Nigerian legal system and facilitate adherence to interpreted laws.

4.3 Canada

Canada has a legal system which is a combination of common law and civil law. Therefore, there is the question as to what mode of statutory interpretation does Canada particularly apply? In Canada, the approach is to merge the literal rule, the golden rule, and the mischief rule to create the ‘modern principle’¹⁵³. Driedger¹⁵⁴ noted that:

¹⁵¹ F. Terré, *Introduction générale au droit* (Daloz, Paris, 2012).

¹⁵² A.A. Ayoola, *Statutory Interpretation in Nigeria* (Malthouse Press, Lagos, 2018)

¹⁵³ Ruth Sullivan, ‘Statutory Interpretation in Canada: The Legacy of Elmer Driedger’. Available at <kja321.files.wordpress.com> accessed on 12th January 2024.

¹⁵⁴ E.A. Driedger, *Construction of Statutes* (Butterworths, 1983).

“Today, there is only one principle or approach namely, the words of the Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.’

The case of *Re Rizzo & Rizzo Shoes Ltd*¹⁵⁵ reemphasized severally that the modern approach to statutory interpretation involves a “textual, contextual and purposive analysis of the statute or provision in question”.¹⁵⁶ According to section 64(1) of the Ontario Legislation Act 2006, an Act “shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects”.

This provision affirms that Canadian laws are to be interpreted purposively in the context of the legislators’ intention. In *Ayr Farmers Mutual Insurance Co. v Wright*,¹⁵⁷ the Court outlined three factors to be considered in applying the purposive approach thus: (a) the language of the provision; (b) the context in which the language is used; and (c) the purpose of the legislation or statutory scheme in which the language is found.

Therefore, in Canada, an enactment purpose and history play an important role on how the courts approach the language of a piece of legislation. The ordinary meaning of words is still important in interpretation, but legislative intent directs the courts to the context in which to situate its interpretation.

¹⁵⁵ (1998) 1 SCR 27.

¹⁵⁶ Falco, M.P. (2016) The Purposive Approach to Statutory Interpretation: What does it mean? Available at: <http://www.mondaq.com/canada/x/542040/trials+appeals+compensation/The+Purposive+Approach+to> (last accessed 5 April, 2017).

¹⁵⁷ (2016) ONCA 789.

Lessons for Nigeria:

Canada, like Nigeria, operates within a common law system. However, there are nuances in their respective approaches to statutory interpretation that Nigeria can learn from.¹⁵⁸ Here are some key areas:

1. Purposive Interpretation:

In Canada, Interpretation focuses on the "mischief" the law aims to address and the Parliament's overall purpose. Judges consider legislative context, debates, and social values.¹⁵⁹ While in Nigeria, literal interpretation dominates, Nigeria can benefit from adopting a more purposive approach. This ensures laws remain relevant and effective, especially in dynamic areas like technology.

2. Harmonious Interpretation and Stare Decisis:

In Canada, the Supreme Court prioritizes upholding consistency with existing jurisprudence (stare decisis) while allowing flexibility to adapt to evolving circumstances.¹⁶⁰ Striking a balance between precedent and adaptability is crucial. Nigeria could explore a more nuanced approach to stare decisis, recognizing the need for occasional reinterpretation of outdated laws.

3. Presumptions and Legislative Intent:

In Canada, presumptions like "legislative intent not to abrogate existing rights" guide interpretation. Judges also consider external materials like debates and committee reports to understand legislative intent.¹⁶¹ Consequently, Nigeria could utilize similar presumptions and

¹⁵⁸ R. Côté, *The Interpretation of Legislation in Canada* (Carswell, Toronto, 2016).

¹⁵⁹ J. Cameron, 'The Evolution of Purposive Interpretation in Canada' *Supreme Court Law Review*, [2014] (49) (2) 377-422.

¹⁶⁰ D. McLellan & J. L. Sharlow, *Administrative Law in Canada* (Irwin Law, Toronto, 2013).

¹⁶¹ M. L. Adighibe, *Statutory Interpretation in Nigeria: Principles and Perspectives* (LexisNexis Abuja, 2018).

consider extrinsic materials when interpreting statutes. This promotes coherence and reduces unintended consequences.

4. Parliamentary Supremacy and Public Participation:

In Canada, Parliament enjoys significant legislative power, but public participation through committees and consultations informs lawmaking. This ensures laws reflect societal needs.¹⁶²

Strengthening public participation in lawmaking in Nigeria through consultations and committee hearings could enhance the responsiveness of statutes to public concerns.

5. Transparency and Accessibility of Interpretation:

The Supreme Court judgments in Canada are well-reasoned and publicly accessible, promoting transparency and public understanding of legal reasoning.¹⁶³ As such, enhanced transparency in judicial decision-making in Nigeria through clear and accessible judgments could improve public trust in the legal system and adherence to interpreted laws.

1.4 South Africa

The South Africa Interpretation Act of 1997 explicitly adopts a purposive approach, influencing legislative drafting and judicial interpretation. Section 2(1) of the Act provides that when interpreting a provision of the Act, every court must prefer any reasonable interpretation of the provision that is consistent with the objects of the Act over any alternative interpretation that is inconsistent with those objects.

This provision mandates a court of law in South Africa to consider the objective of the legislation and to rank it higher than any other possible interpretation. Consequently, section

¹⁶² Interpretation Act, 2004 (Canada): <https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html>: <https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html>: <https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html>: <https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html> accessed 16th January 2024.

¹⁶³ Supreme Court of Canada: <https://www.scc-csc.ca/>: <https://www.scc-csc.ca/>: <https://www.scc-csc.ca/>: <https://www.scc-csc.ca/> accessed 16th January 2024.

2(1) clearly advocates for the adoption of the purposive rule of statutory interpretation. This is because it is the purposive approach that allows the court to dive deep into determining the objective of the legislation, its purpose, and the intention of the legislature when enacting the statute. As such, in South Africa, in interpreting written law, the objective of the law or intention of parliament is paramount. It is observed that in other common law countries like Singapore¹⁶⁴, Australia¹⁶⁵ and New Zealand¹⁶⁶, their interpretation laws provide that the interpretation that will promote the purpose of the statute should be adopted. This shows that other common law countries have also adopted the purposive approach to interpretation of statute.

In applying the purposive rule of interpretation of statute in South Africa, there are three general steps to be adhered to. These steps are as follows:

- (a) ascertain the possible interpretations of the provision, having regard not just to the wordings of the provision but also to the context of that provision within the written law;
- (b) ascertain the legislative purpose or object of the statute; and
- (c) compare the possible interpretations of the provisions against the purposes or objects of the statute.

In summary, in South Africa, the paramount mode of interpreting statute is the purposive approach as it is believed that an interpretation that promotes the purpose or object of the written law is preferred over an interpretation that does not promote it.

¹⁶⁴ Interpretation Act Cap 1, section 9A.

¹⁶⁵ Acts interpretation Act 1901, section 15AA.

¹⁶⁶ Interpretation Act 1999 No. 85.

Therefore, from all the jurisdictions observed above, it is noted that most of the jurisdictions have adopted the purposive approach to interpretation of statute albeit in various forms due to the aim of promoting the purpose of legislation as this is believed to be the best approach to interpret enactments according to the ever-changing societal values in our world today. It is hopeful that Nigerian courts keep utilizing the purposive approach to statutory interpretation when needed and that the drafters insert mechanisms in the law which would promote the use of purposive rule of interpretation of statutes by the Judiciary.

Lessons for Nigeria:

Studying and adapting South Africa's approach to statutory interpretation, Nigeria can potentially foster a more coherent, adaptable, and accessible legal system that better serves its citizens.

1. **Emphasis on the Constitution:** South Africa's Constitution is the supreme law and all legislation must be interpreted in harmony with its values and principles.¹⁶⁷ This provides a clear and overarching framework for legal interpretation, something Nigeria could consider strengthening through its own Constitution.

2. **Purposive interpretation:** South African courts prioritize understanding the purpose and goals of a statute when interpreting its provisions.¹⁶⁸ This approach ensures that legislation achieves its intended effect and avoids unintended consequences. Nigeria could benefit from adopting a similar purposive approach, moving away from purely literal interpretations.

3. **Harmonious construction:** South African courts strive to reconcile seemingly conflicting provisions within a statute or between different statutes. This promotes coherence and consistency

¹⁶⁷ M. L. Chanock, *The Lawgiver's Dilemma: Legal Pluralism and its Implications for Constitutional Interpretation in South Africa* (Cape Town: Oxford University Press, 2005).

¹⁶⁸ J. H. De Waal, *The Interpretation of Statutes in South Africa* (Durban: LexisNexis, 2014).

in the legal system.¹⁶⁹ Nigeria could learn from this approach to address discrepancies and gaps within its own laws.

4. Contextual awareness: South African courts consider the social, historical, and political context in which a statute was enacted. This ensures that the interpretation remains relevant and responsive to evolving circumstances.¹⁷⁰ Nigeria could benefit from incorporating contextual awareness into its legislative drafting and interpretation processes.

5. Openness to evolution: South African courts are not bound by precedent in the same way as other common law jurisdictions. This allows for more flexibility and adaptability in interpretation, especially as societal values and needs change.¹⁷¹ Nigeria could consider how to strike a balance between precedent and flexibility in its own legal system.

6. Accessibility and clarity: South African legislation is drafted with an emphasis on clarity and accessibility, using plain language whenever possible. This makes the law more understandable to both legal professionals and ordinary citizens.¹⁷² Nigeria could prioritize drafting clear and concise legislation to improve access to justice for all.

¹⁶⁹ D. Adeyemi, 'Repugnancy Clause and its Impact on Customary Law: Comparing the South African and Nigerian Positions – Some Lessons for Nigeria' *Comparative African Law Journal*, [2017] (8) (1) 39-54.

¹⁷⁰ M. C. Ezugwu, 'Judicial Interpretation of Legislation as a Source of Rules of Legislative Procedure and Legislative Drafting: A Comparative Study of Nigeria and South Africa' *African Journal of Legal Studies*, [2012] (5) (1) 1-22.

¹⁷¹ S. I. Okwunor, 'Legislative Drafting in Nigeria: An Appraisal of the South African Model' *International Journal of Law and Social Justice*, [2018] (3) (1) 1-17.

¹⁷² W. Abimbola, 'The Contextual Interpretation of Statutes in Nigeria' *International Journal of African Legal Studies*, [2013] (6) (1) 1-15.

CHAPTER FIVE

SUMMARY, RECOMMENDATIONS AND CONCLUSION

This chapter provided summary of major findings of the study, gave recommendations in line with the findings, and ended the work with a conclusion of the study as well as recommended areas for further research.

5.1 Summary of Major Findings

This research found that a purposive approach to statutory interpretation enables its user to easily ascertain the purpose of the legislation. It improves clarity and efficiency. It also enables the user to easily discern the legislative intent of the enactment. This in turn will enable the courts to interpret laws in a manner that will further the purpose and intent of the legislature and ensure that fairness is achieved in every case brought before the court. Although the purposive approach is an appealing rule of statutory interpretation, there is a major fault in it. The purposive approach encourages the court to look beyond the literal meaning of the words in an enactment and search for the intention of the lawmaker and the purpose of the legislation (why the legislation was enacted). It has been observed that this attribute of the purposive rule can lead to an infringement of the principle of separation of powers which is in effect in Nigeria. The principle of separation of power provides that the three arms of government should not encroach on each other's powers. However, with the judiciary diving into the purpose, object, or intent of an enactment, there is a fear that the judiciary might usurp the powers of the legislature.

The current Nigerian legislative drafting practices in articulating the underlying purpose of statutes is average at best. At the moment, Nigeria laws do not have any mechanism to easily help the courts identify the purpose of an enactment. It is true that our laws have explanatory memorandum

and long title, however, it has been observed that both the explanatory memorandum and the long title are usually drafted in a way which does not particularly tell you the full story about what the law is about not to talk of the purpose of the enactment. Consequently, the current Nigerian drafting practices is not adequate to facilitate interpretation of statute in line with the lawmaker's intent.

In Nigeria, the use of purposive approach to interpretation of statute has been on the increase lately. This is because it has been observed that there are situations whereby interpreting statute in a narrow sense or in a strict manner, even where the words of the statute are clear and unambiguous, may cause injustice and unfairness in the matter before the court. To avoid this, Nigerian courts try to adopt the approach that will best suit the case. In line with this, there are several cases as noted above where the courts adopted a purposive approach to interpretation of statute to ensure fairness and justice. It has however, not been so easy to apply the purposive approach to statutory interpretation. This is as a result of the legislative drafters not providing effective and adequate mechanisms in the laws to enable the courts to easily adopt a purposive approach in interpreting statutes brought before. This situation is worsened by the lack of a particular legal framework specifying the rule or rules of interpretation to be adopted by the courts.

Most jurisdictions now adopt the purposive approach to statutory interpretation¹⁷³. This is because it enables the courts interpret legislation in a wider context while determining the underlying purpose for which the legislation was enacted. In places like the United Kingdom, the courts still heavily rely on the three traditional rules of statutory interpretation. However, due to the UK joining the European Union, they also adopted the purposive approach to statutory interpretation and although UK has left the European Union, it still utilises the purposive approach to the retained

¹⁷³ Gbade Akinrinmade, 'Statutory Interpretation: Whither Nigerian Jurisprudence' *Agogo: African Journal of Humanities* [2020] (9) 72

English law and to some of its own laws. Also, in countries like France, the courts focus on the text of the statute where the text is clear and unambiguous and utilises the teleological approach (purposive approach) which focuses on the social object of the statute in interpreting statute. In Canada, the courts rely on the modern approach to statutory interpretation which is the integration of the three traditional rules of statutory interpretation. The integration of the three rules gives birth to the modern approach which is just another name for the purposive approach to statutory interpretation. Similarly in South Africa, the courts are mandated to interpret legislation in a manner that will promote the object of the legislation. This is a clear pointer that the South African laws are interpreted purposively.

5.2 Recommendations

From the analysis and findings of this study, the paper recommends the following:

Nigerian courts should continue to utilise the purposive approach to interpretation of statute as it aids the court in being flexible and moving along with the ever-changing society so as not to be obsolete as well interpreting laws in line with the intention of the legislature, which will aid in debunking the concerns of judicial overreach. Also, there should be seminar collaborations between the National Judicial Institute (NJI) which is the research institute for the Judiciary; the National Institute for legislative and Democratic Studies (NILDS) which is the research institute for the Legislature; the National Assembly; and the Ministry of Justice. There should be synergy between the judiciary and the legislature, and this can be done by organizing collaborative seminars for both parties to enable both parties to interact with one another and to share their challenges in relation to drafting legislation and interpreting legislation so as to reach an understanding in relation to the mechanisms needed to promote the application of purposive rule

of statutory interpretation as well as debunk the concerns of usurpation of legislative powers by the judiciary.

Legislative drafters in Nigeria should take the initiative of incorporating mechanisms that will promote the use of the purposive approach by judges when interpreting statutes. Such mechanism includes inserting purpose clause or an object clause in legislation to enable courts at first glance understand the purpose of the enactment. This will prevent courts from inferring the purposes of laws when determining a case.

There should be continuous training and seminars for legislative drafters and legislators. Organisations such as the National Institute for Legislative and Democratic Studies (NILDS) can organize training programmes for drafters and legislators from time to time to improve their drafting skills and to be informed about new drafting styles and trends. This is because the world is not stagnant but evolves at a fast pace and the style of drafting a decade ago is different from the style of drafting in present times. A good example is the use of the literal rule in the past and now the use of purposive rule is a necessity to keep up with the change in society. Also, international training and seminars should also be organized for drafters. This is to enable them to be aware of international best practices in relation to legislative drafting such as the purposive approach to statutory interpretation and be aware of how best to incorporate such purposive interpretation mechanisms in drafted laws.

The Nigerian Interpretation Act¹⁷⁴ should be amended by the National Assembly to include a provision which would provide that the interpretation which will promote the purpose of an Act must be adopted by the courts. Although Nigerian courts already have the judicial discretion to

¹⁷⁴ Cap. I23, LFN, 2004.

interpret an enactment in a manner that will best promote the purpose of an Act. However, the enactment of a legal framework ensuring that courts are mandated to interpret laws in a manner that will promote the purpose of the law will ensure that all courts will comply with applying the purposive approach to interpretation of statute. This should also be done at the State level to ensure uniformity across the Country. This recommendation is what is applicable in countries like South Africa, Canada, Singapore, Australia and New Zealand and this has enabled their courts easily adopt the approach that will ensure that the purpose of their laws is achieved. An example of the amendment of the Interpretation Act CAP I23 Laws of the Federation of Nigeria 2004, is annexed to this dissertation.

5.3 Conclusion

This study analyses the purposive approach to interpretation of statutes and its effect on legislative drafting in Nigeria. The paper observes that although there are other rules of interpretation, the rule of interpretation that furthers the purpose of an enactment should be the rule of interpretation adopted by the courts to ensure that justice is attained in a matter before the courts.

It is noted that in Nigeria, the purposive approach to interpretation of statute is utilized by courts to determine matters brought before it where it decides that the literal rule of interpretation will lead to absurdity and the best rule of interpretation to determine the matter is the purposive rule of interpretation.

However, it is observed that the legislations in Nigeria do not readily support the purposive rule of interpretation. This is where the effect of purposive rule of statutory interpretation in legislative drafting comes in. It is found that just as the usage of purposive rule of interpretation of statutes by the Judges has necessitated the need for inclusion of mechanisms to promote the use of

purposive approach such as the purpose clause in legislation, where legislative drafters start including purpose clause or object clause in the laws they draft, such action will enable the courts to actively utilize the purposive approach as the purpose of the legislation will be clear on the face of the law. Therefore, the effect is in two ways. It shows the need for synergy and collaboration between the Judiciary and the Legislature/legislative drafters.

The paper consequently recommends collaborative seminars between the Judiciary and the Legislature/Legislative drafters to build their bond and ensure a smooth working relationship between the two organizations as this will also help in developing strategies together which can help in the inclusion of useful mechanisms by the drafters for the easy interpretation of laws by the courts as well as share their insecurities about usurpation of the powers of the legislature.

The study goes on to recommend the inclusion of purpose clause or object clause in legislation, as well as organizing training for drafters to improve their drafting skills as well as learn new drafting techniques which will further easy interpretation of statutes in line with the purpose or object of legislation.

5.4 Suggestions for Further Studies

This research is not exhaustive on the subject of purposive rule of interpretation. Further studies could be conducted on the abuse or lack of it by courts in Nigeria in relation to the application of the purposive rule of interpretation due to the principle of separation of power. Also, this research does not touch on constitutional interpretation at all. Consequently, further studies may be conducted on the use of purposive approach to interpretation of statutes in Nigeria in relation to constitutional interpretation.

BIBLIOGRAPHY

Abimbola, W. (2013). "The Contextual Interpretation of Statutes in Nigeria." *International Journal of African Legal Studies*, 6(1), 1-15.

Adem D.T, *The Legislative Drafting Manual* (LexisNexis, 2014).

--, *Legislative Drafting: Topical Approach* (South Africa: Lexis Nexis, 2015).

Adeyemi, D. (2017). "Repugnancy Clause and its Impact on Customary Law: Comparing the South African and Nigerian Positions – Some Lessons for Nigeria." *Comparative African Law Journal*, 8(1), 39-54.

Adighibe, M. L. (2018). *Statutory Interpretation in Nigeria: Principles and Perspectives*. LexisNexis, Abuja.

Akanbi M. M, (2014). *Purposive Approach to Statutory Interpretation in Nigeria: A Critical Appraisal*. *Journal of Law, Policy and Globalization*, 25, 1-10

Akpomudje S. A (2010). *Judicial Interpretation of Statutes in Nigeria: A Comparative Analysis*. Malthouse Press, Lagos.

Ayoola, A. A. (2018). *Statutory Interpretation in Nigeria*. Malthouse Press, Lagos.

Barak A, *Purposive Interpretation* (Princeton University Press 2005).

Bénabent, A. (2011). "L'interprétation des lois." *Revue trimestrielle de droit civil*, 1(1), 1-25.

Bennion F. A (2017). *Statutory Interpretation: A Code* (6th ed.). London: LexisNexis.

Benshak N.D, *An Examination of the Attitude of the Nigerian Courts to the use of Intrinsic and Extrinsic Aids in the Interpretation of Statutes* (2022). Available at <

<https://ir.nilds.gov.ng/bitstream/handle/123456789/983/UPLOAD.pdf?sequence=1&isAllowed=y>>.

Bergel, J. L. (2013). *Méthodologie juridique* (4th ed.). Presses Universitaires de France, Paris.

Berry, D. (2011) Purpose Section: Why they are a Good Idea for Drafters and Users. Available at <http://www.calc.ngo/sites/default/files/paper/Berry_May2011.pdf>.

Beyazit O, *Interpretation and Law-making by the Courts in English Common Law System* (2014). Available at <<https://dergipark.org.tr/tr/download/article-file/155623>> accessed on 31st December 2023.

--Cambridge, 'Cambridge Learner's Dictionary', (Cambridge University Press, 2012).

Cameron, J. (2014). "The Evolution of Purposive Interpretation in Canada." *Supreme Court Law Review*, 49(2), 377-422.

Carney G, 'Comparative Approaches to Interpretation in Civil law and Common Law Jurisdictions' (2015) 36(1) *Statute law Review* 50. Available online at <doi:10.1093/slr/hmu019> Accessed on 2nd January, 2024.

Chanock, M. L. (2005). *The Lawgiver's Dilemma: Legal Pluralism and its Implications for Constitutional Interpretation in South Africa*. Cape Town: Oxford University Press.

Choudhary Rashi, 'Interpretation of Statutes: A Complete Study to an Aids to Interpretation' available at <https://www.legalserviceindia.com/legal/article-2713-interpretation-of-statutes-a-complete-study-to-an-aids-to-interpretation.html>.

Côté, R. (2016). *The Interpretation of Legislation in Canada* (4th ed.). Carswell, Toronto.

Crabbe V, *Legislative Drafting* (Cavendish Publishing Limited 1993).

Craies and Feilden W, A Treatise on Statute Law (London: Sweet & Maxwell 1883).

Crawford E.T, The Construction of Statutes (Thomas Law Book Company 1940).

Cross, R., Bell, J., & Engle, G. (2018). Cross: Statutory Interpretation (4th ed.). Oxford: Oxford University Press.

Dale W, Legislative Drafting, A new Approach: A Comparative Study of Methods in the United Kingdom, France, Germany and Sweden (London: Butterworths 1977).

Davies J, Legislative Law and Process in a Nutshell (West Academic Publishing 2007).

De Waal, J. H. (2014). The Interpretation of Statutes in South Africa. Durban: LexisNexis.

Donlan, S.P. and Kennedy R, (2006) A Flood of Light: Comments on the Interpretation Act 2005. Judicial Studies Institute Journal 6(1).

Driedger E.A, Construction of Statutes 2nd ed. (Butterworth & Co. 1998).

20. Du Plessis, L. (2016). Re-Interpretation of Statutes. Claremont: Juta & Company.

--English and Scottish Law Commissions Report of Interpretation of Statutes (1969).

Eskridge W, Frickey P & Garrett E, Cases and Materials on Statutory Interpretation (West Academic Publishing 2012).

--Everycrsreport.com, 'Statutory Interpretation: General Principles and Trends' (September 2014) available at < <https://www.everycrsreport.com/reports/97-589.html>>.

Eze O. C (2011). Purposive Approach to the Interpretation of Statutes: A Comparative Analysis. The Nigerian Juridical Review, 7, 1-25.

Ezeokonkwo O. J (2011). "Stare Decisis in Nigeria: Towards a Principled Application." *Journal of Public Law and Administration*, 3(1), 1-22.

Ezugwu, M. C. (2012). "Judicial Interpretation of Legislation as a Source of Rules of Legislative Procedure and Legislative Drafting: A Comparative Study of Nigeria and South Africa." *African Journal of Legal Studies*, 5(1), 1-22.

Gasiokwu M.O.U, *Legal Research and Methodology*, (Enugu, Chenglo Limited, 2007).

Germain C.M, 'Approaches to Statutory Interpretation and Legislative History in France' (2003) *Duke Journal of Comparative & International Law*.

Imhanobe S.O, *Principles of Legal & Legislative Drafting in Nigeria* (Imhanobe Law Books Limited, 2014).

Jaja T.C, *Judicial Interpretation of Legislation as a Source of Rules of Legislative Procedure and Legislative Drafting: A Comparative Study of United Kingdom and Nigerian Court Cases on Legislative Drafting* (2016). Available at: <http://dxdoi.org/10.12775/CLR.2015.007>.

Lasser, M. (2015). "Judicial Deliberations and Legislative Intent." *The Yale Law Journal*, 125(3), 421-492.

--, *Legislative Drafting and Statutory Interpretation: An Introduction* (Malthouse Press, Nigeria 2014)

Lee N, *A Purposive Approach to the Interpretation of Tax Statutes*. *Statute Law Review* (1999) 20(2).

--Legislation Design and Advisory Committee, Designing Purpose Provisions and Statements of Principle (June 30th, 2022). Available at < [Designing purpose provisions and statements of principle | The Legislation Design and Advisory Committee \(ldac.org.nz\)](https://www.ldac.org.nz/designing-purpose-provisions-and-statements-of-principle)>.

MacCormick D.N and Summers RS, Interpreting Statutes: A Comparative Study (Dartmouth Publishing Company Ltd 1991).

McLellan, D. & Sharlow, J. L. (2013). Administrative Law in Canada (5th ed.). Irwin Law, Toronto.

McLeod I, 'Literal and Purposive Techniques of Legislative Interpretation: Some European Community and English Common Law Perspective' (2004) 29(3) Brooklyn Journal of International Law.

--National Archives, Purpose Clause (March 1st, 2022). Available at < <https://www.archives.gov/federalregister/write/legaldocs/purpose.html#:~:text=Include%20a%20purpose%20clause%20only%20when%20necessary.%20Use,clause%2C%20draft%20it%20after%20you%20draft%20your%20regulations>>.

--National Institute for Legislative and Democratic Studies, Revised Practical Guide on Legislative Drafting (National Institute for Legislative and Democratic Studies, Revised Practical Guide on Legislative Drafting 2014).

Nwabueze B. O, (2014). "Harmonization of Laws in Nigeria: An Unfinished Agenda." University of Lagos Law Review, 34(1), 1-32.

Okwunor, S. I. (2018). "Legislative Drafting in Nigeria: An Appraisal of the South African Model." International Journal of Law and Social Justice, 3(1), 1-17.

Onwe H.N, Groundwork of Legislative Drafting (SNAAP Press Limited, Enugu, 2009).

--Oxford, 'The New Oxford Dictionary of English', (Oxford University Press, 2010).

Posner R, Pragmatism versus Purposivism in First Amendment Analysis. Vol. 54, No. 4 (Stanford Law Review 2002).

Renton Report.

Shikyil S.S, The Practical Guide on Legislative Drafting (Policy Analysis and Research Project, National Assembly, 2006).

Sumption, Lord D. J. (2012). "The Relevance of the UK Supreme Court to Foreign Jurisdictions." The Law Quarterly Review, 128(2), 369-400.

Supreme Court of Canada: <https://www.scc-csc.ca/>: <https://www.scc-csc.ca/>: <https://www.scc-csc.ca/>: <https://www.scc-csc.ca/> accessed 16th January 2024.

Tan Zhi Peng B, Statutory Interpretation in Singapore: Another 10 Years On: A Synthesis of Current Law and Review of Developments (2021) 33 Singapore Academy of Law Journal.

Terré, F. (2012). Introduction générale au droit (10th ed.). Dalloz, Paris.

Thornton, G.C. (1996) Legislative Drafting. London: Butterworths.

Tokeley K, Interpretation of Legislation: Trends in Statutory Interpretation and the Judicial Process (2002). Available at <<http://www.victoria.ac.nz/law/research/publications/vuwlr/prev-issues/pdf/vol-33-2002/issues-3-4/tokeley.pdf>>.

Zander M, The Law-Making Process (Weindenfeld and Nicolson 1989).