AN EXAMINATION OF THE ATTITUDE OF THE NIGERIAN COURTS TO THE USE OF INTRINSIC AND EXTRINSIC AIDS IN THE INTERPRETATION OF STATUTES

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CERTIFICATION

Be it certified that this dissertation titled **"An Examination of the Attitude of the Nigerian Courts to the Use of Intrinsic and Extrinsic Aids in the Interpretation of Statutes"** is the original work of NANTAP DAKYER BENSHAK with **Matric No:. PG/NLS/1900017**, carried out under the supervision of Dr. Bethel Uzoma Ihugba. It is further certified that this thesis has not been submitted either in part of whole to this University or any other academic intuition for any degree or master's programme, and that all sources used have been duly acknowledged by proper reference.

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APPROVAL

This dissertation titled "An Examination of the Attitude of the Nigerian Courts to The Use of Intrinsic and Extrinsic Aids in The Interpretation of Statutes" by NANTAP DAKYER BENSHAK has been approved for the award of Master of Law in Legislative Drafting (LL.M), University of Benin/National Institute for Legislative and Democratic Studies (UNIBEN/NILDS).

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DEDICATION

This research work is dedicated to my parents, my siblings and my fiancé for their immense love and support.

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My heartfelt thanks goes to my parents; ACP Benshak Dakyer walben & DSP Ladi Dakyer. My Sister Mrs. Bartholomew Retji, my brother Anji Benshak, my Sister Nanret Benshak and my dearest fiancé Mr. Johnson Uwem for their moral, financial, immense support and their encouragement during the period of my studies from the beginning to the end. They are the reason behind my success and growth.

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LIST OF ABBREVIATIONS

AC……………………………………… Appeal Cases

AIR…………………………………….. All Indian Reporter

ALL NLR………………………………. All Nigerian Law Report

All ER………………………………….. All England Report

ANLR…………………………………. All Nigerian Law Report

AC USA……………………………….. Appeal Cases United States of America

ER……………………………………… English Reports

G.L.H………………………………….. Gujarat Law Herald

ILR……………………………………… Indian Law Report

JELR……………………………………. Justice Equity Law Reform

NWLR…………………………………. Nigerian Weekly Law Report

QBD……………………………………. Queens Bench Division

SC……………………………………… Supreme Court

SCC……………………………………. Supreme Court Cases

SCR……………………………. …… Supreme Court Report

SCJ…………………………………….. Supreme Court Journal

SCNJ…………………………………… Supreme Court of Nigerian Judgment

WRN…………………………… ……... Weekly Report of Nigeria

ABSTRACT

This research themed 'An Examination of the Attitudes of the Nigerian Courts to the Intrinsic and Extrinsic Aids to Interpretation of Statutes' is an appraisal of the attitude of the Nigerian courts towards the application of the external and internal aids to the interpretation of statutes. The justification for this study, was to find answers to these questions- What are the intrinsic and extrinsic statutory interpretation aids? What was the attitude of the Nigerian courts to the use of intrinsic and extrinsic aid in interpretation of statutes? To what extent were the existing aids of interpretation effective? Which approaches if any, are available for improving the effectiveness of statutory interpretation in Nigeria? It is in this regard that the following objectives was raised- To understand what are intrinsic and extrinsic aids to statutory interpretation, To examine the attitude of the Nigerian courts to the use of intrinsic and extrinsic aids in interpretation of statutes, To examine the extent to which the existing aids of interpretation was effective and To highlight possible approaches if any, to improving the effectiveness of statutory interpretation in Nigeria.

The researcher adopted the doctrinal method for each of the objectives, which is reliance on principles of law, statutes, case law and constitution in examining the attitude of the Nigerian courts to the use of intrinsic and extrinsic aids to interpretation of statutes. In this study it has been discovered that there exists a plethora of aids to interpretation of statutes.

In line with the objectives, the researcher made some findings that Intrinsic aids of interpretation are matters within an Act itself which may help make the meaning clearer. The court may consider the long title, the short title and any preamble. Other useful internal aids may include headings before a group of sections and any schedules attached to the Act. WHILE Extrinsic aids of

interpretation are matters which may help put an Act into context. Sources include previous Acts of Parliament on the same topic, earlier case law, dictionaries of the time, and the historical setting. Extrinsic aids also include international conventions, regulations or directives which have been implemented by English legislation. For the purpose of construction or interpretation, the court had to take recourse to various internal and external aids as the Supreme Court has confirmed, interpretation of statute being an exercise in the ascertainment of meaning, everything which is logically relevant should be admissible. Each of the principal rules of statutory interpretation had inherent shortcomings, which led to delay in judicial administration and caused injustice. The legal jurisprudence changed as culture and social values changed, thus, there was no need to base judgment on stereotypes based on strict common law principles of precedent that has been used in Nigeria. Judges ought to have interpreted statutes and apply judicial discretion within important social contexts that are considerate of relevant social views, values and interests (thus interweaving law and society).

Furthermore, the researcher made some recommendations in response to the findings- The judiciary should be given the free hand and responsibility to use all tools available to it to interpret and make meaning to the law, too much restriction may not be good for a dynamic and organic interpretation law and adjudication. Legal drafters should ensure that Internal and external aids included in legislative drafts are focused towards ascertaining the meaning to be given or associated with a word or section of a statute; and should be an exercise aimed at ensuring that the end of justice is served. The Legislature and legislative drafters should explore the use of purpose clauses in Bills, the purposive approach as a revamped version of the other principal rules of interpretation entails the inherent attributes of the literal, golden, mischief and liberal rules of interpretation. Legislative draftsman must be in a position to know exactly when the provisions of

the Act will or might apply; he must take relevant provisions of the Act fully into account and ensure that its' requirement is precisely followed. The paper concludes that the continued classification of the various rules as separate and distinct rules was no longer tenable. The Purposive approach, a revamped / harmonized version of the principal rules of statutory interpretation, should be the key rule of statutory interpretation in Nigeria subject to human exigencies and interest of justice. Reason being that one of the attributes of an egalitarian society is its dynamism, that is, the ability to change over time. Thus, law should not be static. It must change as human nature changes from time to time.

KEY WORDS: Interpretation, Statutes and Aids.

CHAPTER ONE

1.1 Background to the Study

The doctrine of separation of power entails the divisions of power among the different organs of government namely, the legislature, executive and judiciary. The legislature is the body responsible for making laws, the Executive executes and implements while the judiciary interprets the laws. In the course of interpreting laws made by the legislature, the courts use various aids to interpretation in other to arrive at the intention of the legislature as contained in the statute. Some of these aids are intrinsic and extrinsic. The intrinsic aids are those contained inside the statutes while extrinsic are those contained outside the statutes.

Other aids to interpretation of statutes include Literal rule, golden rule and mischief rule. There are two views to statutory interpretation namely, the texualist and purposivist. The textualist are of the opinion that in interpretation of statutes, the only thing relevant is the TEXT or LANGUAGE of the statutes and nothing more. While the purposivist are of the view that the court should always seek out the PURPOSE surrounding the legislation especially where a literal meaning of the text will lead to absurdity.

This work will examine the various aids to statutory interpretation in Nigeria.

Generally, in drafting legislation, the Nigerian legislature has two major goals to wit; to construct a legislation that gives legal effect to government policies; to communicate the law clearly to the people who are affected by it, the officials who administer it and the Judges who interpret it.

The Nigerian legislature draft law based on the instructions they receive from the sponsoring Ministry, as a general tradition, this is the case in terms of Executive Bills that are submitted by the President or Governor. The meaning of that law, in the end is not necessarily the meaning the

sponsoring Ministry or Legislature's intention nor the meaning the average reader might give it. Rather the meaning of the law is what the courts determine it to be by applying the substantial body of legal rules known as the principles of statutory interpretation. To put this in a constitutional context, the role of our courts as a final authority on the meaning of legislation is one of the most important component of the rule of law. Because the courts, independent of the Executive government determine the meaning of the law, that meaning does not change simply because a different executive government is in power. That keeps the law sufficiently certain to enable the people who are subject to it to know their rights and obligation. However, challenges abound as far as drafting and interpretation of statutes is concerned. Some of these problems include but not limited to the fact that different words could mean different things depending on the time period; every word has meaning.

It is against this backdrop that this research has been embarked upon in order to address the attitude of the Nigerian courts towards the application of the intrinsic and extrinsic aids to interpretation of statutes.

1.2 Statement of the Problem

As demonstrated in the background, there are various concerns surrounding the interpretation of statutes. Nigeria as a democratic country operates a system of separation of power where the legislature is charged with law making while interpretation is for the judiciary as contained in section 4 and 6 of the 1999 Constitution as amended. However, in the process of ascertaining the interpretation of law enacted by the legislature, the court makes use of intrinsic and extrinsic aids. This raises concern as to the nature and extent to which the various aids in interpretation of statutes

have been effectively used by the court. In response to the issues raised, the purpose of this research is to examine the attitude of the Nigerian courts to the use of intrinsic and extrinsic aids in the interpretation of statute in order to determine whether and how best to improve their effectiveness. Examples of these intrinsic aids are-

a) Long Title
b) Preamble and Preamble to Constitution
c) Headings Marginal Notes
d) Punctuations, Illustration
e) Proviso
f) Explanation and Non Obstante Clause.

Examples of these extrinsic aids –

a) History Facts and Circumstances
b) Statements of Object and reasons
c) Parliamentary Debates (Hansard)

Following the decision in Pepper v Hart (1993) AC 593, if a primary legislation is ambiguous or obscure the courts may in certain circumstances take account of statements made in parliament by the Ministers or other promoters of a Bill in construing that legislation. Previously, using Hansard in this way would have been considered a breach of Parliamentary privilege.

However, the legislative drafting principle can improve the use of these intrinsic and extrinsic aids to interpretation of statues in the following manner. That it must be done by a person having the basic legal knowledge

a) Proper use of English language or the language in which the legislation is drafted.

b) Ability and competence of draftsmen combined with imagination and plenty of practice in doing the work.

c) Terms chosen should be absolute. It should not give rise to differences of opinion.

1.3 Research Questions

This research work intends to answer the following research questions:

1. What are the intrinsic and extrinsic statutory interpretation aids?
2. What is the attitude of the Nigerian courts to the use of intrinsic and extrinsic aid in interpretation of statutes?
3. To what extent are the existing aids of interpretation effective?
4. Which approaches if any, are available for improving the effectiveness of statutory interpretation in Nigeria?

1.4 Aim and Objectives of the Study

The aim of this research work is to analyze the Attitude the Nigerian Courts to the use of intrinsic and extrinsic aid in the interpretation of statutes in order to determine whether and how best to improve their effectiveness through good legislative drafting practices. The research has the following objectives:

1. To understand what are intrinsic and extrinsic aids to statutory interpretation
2. To examine the attitude of the Nigerian courts to the use of intrinsic and extrinsic aids in interpretation of statutes

3. To examine the extent to which the existing aids of interpretation is effective
4. To highlight possible approaches if any, to improving the effectiveness of statutory interpretation in Nigeria.

1.5 Significance of the Study

The outcome of this research work will be of a huge importance to the Nigerian legislature especially with regards to legislative drafting. After a detailed analysis and recommendations have been made on this subject matter all ambiguities that have been previously posed by the various aids to interpretation of statutes can actually be foreseen by prospective drafters. It will assist the Judges while performing the function of interpreting provisions of a statute. The court can get help from within the statue or even outside the statute for interpretation based on the recommendations contained in this dissertation.

This research is also significant as it will expose how the courts unravel the intention of the legislature. This research will also help to highlight some of the impacts and failures of the Nigerian Courts in the use of the intrinsic and extrinsic aids to interpretation of statutes.

1.6 Scope and Limitation of the Study

It is pertinent to know that schools of statutory interpretation vary on what factors should be considered, nevertheless, all approaches begin with the language and structure of the statutes itself. The research work is limited to the intrinsic and extrinsic aid to the interpretation of statute in Nigeria.

Apart from the limitations given above, the researcher is also concerned with the requirement as to volume given as regards the research work and will be cautious not to exceed the prescribed

maximum page limit. Notwithstanding the above limitations, the researcher is committed to giving the best for a robust examination of the research topic.

1.7 Organizational Layout

This research work is organized into five Chapters for better comprehension of the research topic. Chapter One discusses preliminary issues on the research topic such as Background of the Study, Statement of the Problem, Aims and Objectives of the Study, Research Questions, Significance of the Study, Scope and Limitation of the Study and Research Methodology and Chapter Outline. The essence of this chapter is to lay a proper foundation and basis for the research work such that a reader would easily decipher the components of each chapter as they read through the work.

Chapter Two is the literature review covering Conceptual Framework, Separation of Power, Historical Development of Aids of Interpretation of Statutes, and Theoretical Framework: Intrinsic and Extrinsic and Research Methodology. Every research work adopts variety of terminologies and concepts. The relevance of this chapter is to ensure that every ambiguous term is given its conceptual meaning with peculiarity to the subject matter of the research.

Chapter Three makes Comparative Analysis with other Jurisdictions on the use of Statutory Interpretation. In this chapter reference is made to other jurisdictions such as Ghana, United Kingdom, and a few other jurisdictions. Also, this chapter looks at how drafters should take cognizance and make use of the aids to statutory interpretation.

Chapter Four gives an in-depth look at the attitude of Nigerian courts to the use of intrinsic and extrinsic aids in the interpretation of statutes. This chapter is more or less the crux of the research

work. Here emphasis is laid on conduct of the Nigerian courts towards the application of the various aids of interpretation through a detailed analysis of some selected decided cases

Chapter Five is the Summary of findings, Recommendations and Conclusion. This chapter further states the findings, the contribution that this research has made to knowledge and suggests areas for further study.

CHAPTER TWO

LITERATURE REVIEW: CLARIFICATION AND THEORETICAL FRAMEWORK

In every research work there is the tendency of employing the use of certain concepts which if not properly defined may defeat the purpose of the research work or sometimes tends to give it an alien meaning that was never intended. Therefore, in this chapter we shall attempt defining/delineating every concept peculiar to this research so as to narrow our focus to the theme of this research.

2.1 Conceptual Clarification

Nigerian Courts referred to in this dissertation are those in the Nigerian constitution recognizes Superior courts as either Federal or State courts whereas Magistrate courts are lower courts. A primary difference between both is that the President appoints justices/judges to federal courts, while State Governors appoint judges to state courts. All appointments (federal or state) are based on the recommendations of the National Judicial Council.

The Federal courts are: the Supreme Court, the Court of Appeal and the Federal High Court.

The State courts include: the High Court of a State.

Due to the fact that the Nigerian capital (The Federal Capital Territory, FCT) is not a state, it has no Governor. Its courts that are equivalent to the state courts have their Judges appointed by the President of the Federal Republic of Nigeria. The FCT courts are: the High Court of the FCT, the Customary Court of Appeal of the FCT and the Sharia Court of Appeal of the FCT.

The Supreme Court of Nigeria is the highest court in Nigeria. It is based in the capital, Abuja. The Supreme Court is mainly a court of appellate jurisdiction and is the final appeal court in the country. It also has original jurisdiction in dispute between State governments and the Federal Government. The Supreme Court is headed by a Chief Justice of Nigeria who is assisted by other Justices. The appointment of the Chief Justice and Justices requires confirmation by the Senate of the Federal Republic of Nigeria.

The next highest court is the Court of Appeal, in Abuja. However, to bring the administration of justice closer to the people, the Court of Appeal has multiple divisions (currently sixteen) in various parts of the country. The head of the Court of Appeal has the title President of the Appeal Court. She/he is assisted by Justices. Only the appointment of the President of the Appeal Court requires confirmation of the Senate of the Federal Republic of Nigeria.

The Court of Appeal is mainly a court of appellate jurisdiction, however it has original jurisdiction for presidential and vice-presidential election petitions. The Federal Court of Appeal is where the multiple legal systems (English, Customary and Sharia) of Nigeria converge. It is constitutionally required to have at least three Judges who are versed in customary law and at least three Judges who are versed in Islamic personal law. Judgments from the tier 2 court can be appealed to the Supreme Court (the tier 1 court).

Just below the Federal Court of Appeal are the tier 3 courts. They include: (1) the Federal High Court and (2) the High Court of a state/FCT, (3) the Customary Court of Appeal of a state/FCT and (4) the Sharia Court of Appeal of a state/FCT.

The Federal High Court is based in Abuja. In order to bring the administration of justice closer to the people it has a division in each of the thirty-six states of the country. The Federal High Court

is generally a court of original jurisdiction. However, it has appellate jurisdiction from tribunals such as the Tax Appeal Tribunal. It is presided over by a Chief Judge who is assisted by other Judges.

The High Court of a state/FCT is the highest Common law court in a state or the FCT. The High Court of a state/FCT and the Federal High Court have similar powers. Due to the fact that there is a division of the Federal High Court in each state and that each state has its own High Court, there is usually some confusion as to which court is which. For example, in Lagos state, there is a Federal High Court, Lagos and a High Court of Lagos State (sometimes referred to as The Lagos State High Court). It is presided over by a Chief Judge who is assisted by other Judges.

The Customary Court of Appeal of a state/FCT is the highest Customary law court in a state/FCT. It is presided over by a Judge who has the title: President of the Customary Court of Appeal of the state/FCT and is assisted by other Judges.

The Sharia Court of Appeal of a state/FCT is the highest Sharia law court in a state/FCT. It is presided over by a Grand Khadi who is assisted by other Khadis.

Judgements from the tier 3 courts can be appealed to the tier 2 court (Federal Court of Appeal).

The lowest courts in the country are all state courts (there is no federal court in this group). They include (i) the Magistrate Courts that handle English law cases (ii) the Customary Courts that handle Customary law cases and (iii) the Sharia Courts that handle Sharia law cases.

Judgments from the tier 4 courts can be appealed only to their respective higher tier 3 courts (e.g. judgments from the Common law Magistrates Court can only be appealed to the tier 3 Common

law court (the High Court of a state/FCT). Other courts include; National Industrial Courts, Tax Appeal Tribunals and the Code of Conduct Tribunal (CCT).[1]

2.2 Separation of Power

Separation of powers is the division of the powers and functions of government among the three independent and separate arms of government; that is, the legislature, executive and judiciary, to act as a check and balance on one another and prevent the excesses and abuse of powers. The primary purpose of the concept is to guard against dictatorial rule by avoiding concentration of all the powers of government in one hand, or more than one person being involved in more than one of the powers of government or one arm of government exercising control over the other. Through this separation, each branch works according to its own authority, forming a check or balance against any abuse of power by the remaining two branches. [2]

The doctrine of separation of powers as it is understood today came largely from the work of the French Jurist Baron De Montesquieu[3] in his book The Spirit of Law (chapter XI) who studied and expanded the work of John Locke[4] He was concerned with the preservation of political liberty of the citizen. According to him:

> Political liberty is to be found only when there is no abuse of power. Experience shows that every man invested with power will abuse it by

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[1] Mwalimu Charles, *The Nigerian Legal System: Public Law* (New York: Peter Lang 2005) V1 pg 780

[2] Polybius and the Founding Fathers, The Separation of Powers 1998 TSP <Polybius and the Founding Fathers: the separation of powers (mlloyd.org)> accessed 16th January 2022

[3] *Report of the Constitutional Drafting Committee,* vol. 1, 1976 p. XXXIII

[4] John Locke, *Second Treatise on Civil Government* (1690) Chapter XII. It is generally agreed that the

> carrying it as far as it will go… to prevent this abuse, it is necessary from the nature of things that one power should be a check on another…when the legislature, executive and judicial powers are united in the same person or body…, there can be no liberty…Again there is no liberty if the judicial power is not separated from the legislative and executive…There would be an end of everything if the same person or body whether of the nobles or of the, people, were to exercise all three powers.[5]

The 1999 Constitution of the Federal Republic of Nigeria recognizes the doctrine of separation of powers. While section 4 of the Constitution vests the legislative powers of the federation on the National and State Houses of Assembly; section and 6 vest the executive and judicial powers of the Federation on the President Governors; and the courts established by the constitution, respectively.6 Additionally, section 147(4) of the Constitution provides that: a member of the legislature appointed as a minister of the Federation must vacate his seat in the legislature. This is consistent with the decision of the Court of Appeal in *Hon. Abdullahi Maccido Ahmad v. Sokoto State House of Assembly & Anor*[6], where the Court Per Salami JCA held inter alia that the doctrine of separation of powers has three implications.

> a. that the same person should not be part of more than one of the arms or division of government;

[5] *Spirit of Law* (1748) Chapter 11 at 3
[6] (2002) 44 WRN 52

> b. that one branch should not dominate or control another arm. This is particularly important in the relationship between (the) executive and the courts;
>
> c. that one branch should not attempt to exercise the function of the other…

The tripartite division of powers is necessary for the purpose of achieving balance of authority and power for the smooth running of government at any level. However, the doctrine of separation of powers is not without exceptions. The exceptions to the strict application of the theory of separation of powers are known as checks and balances. This is also provided for under the constitution for the purpose of checking the excesses one arm of government might indulge in, claiming constitutional protection. This is consistent with the view of Prof. Ben Nwabueze[7] which is to the effect that:

> Concentration of government powers in the hands of one individual is the very definition of dictatorship, and absolute power is by its very nature arbitrary, capricious and despotic.

Consequently, the framers of the constitution just made provisions which were not meant to amount strictly to checks and balances, but which somehow fused the powers allocated to the three arms of government intense. The focus of the next segment is on the limitations, exceptions or frustrations of the doctrine of separation of powers.

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[7] 8 B. O. Nwabueze, *The Presidential Constitution of Nigeria* (London: Sweet and Maxwell, 1981) at 32.

There are however a few instances of fusion of powers under The Doctrine of Separation of Powers in Nigeria.

Firstly, under section 4(8) of the 1999 Constitution of the Federal Republic of Nigeria, the exercise of the legislative powers of both National Assembly and a State Assembly "shall be subject to the jurisdiction of court of law and of judicial tribunals established by law" The second part of the provision is to the effect that the National Assembly or a House of Assembly "shall not enact any law that ousts or purports to oust the jurisdiction of a court of law or of a judicial tribunal established by law". This completes the circle of an effect check on the powers of the legislature and also positions the judiciary as the custodian of the rule of law.

Consistent with this declaration, is the view of Mustapher JSC in *Inakoju v Adeleke*[8] which is to the effect that:

> The courts have the jurisdiction and the competence and indeed are duty bound, to exercise their jurisdiction to ensure that the legislature comply with constitutional requirement.

In addition, the Chief Justice of Nigeria is empowered by virtue of section 46(3) of the Constitution of Federal Republic of Nigeria, 1999 to make rules with respect to the practice and procedure of a High Court for the purpose of enforcement of Fundamental rights. This has made the judiciary a promulgator instead of an interpreter of the law. Thirdly, the President of the Federal Republic of Nigeria is empowered to make regulations, under section 32 of the Constitution, concerning citizenship and immigration matters. Whereas subsection (2) of section 32 requires the president

[8] (2007) 13 NWLR 427 at 670

to lay before the National Assembly such regulations, the promulgating authority here is the executive (that is the president), and not the legislature.

Again, the President, or the Governor as the case may be, is empowered, under section 175 and 212, respectively, to pardon convicted persons or to exercise his prerogative of mercy, by remitting, blotting out or extinguishing a convict's sentence imposed by the judiciary. Yet still, by reason of section 292 of the 1999 Constitution, the president, together with the Senate or a Governor together with a House of Assembly may remove a judicial officer for stated misconduct. Not only has that, section 315 of the Constitution, allowed the President or a Governor to modify an existing law.

Furthermore, section 160 and 204, respectively of the 1999 Constitution, allow certain executive bodies established under the constitution to regulate their own procedure, confer powers and impose duties on any other or authority for the purpose of discharging its functions; provided the approval of the president or the governor, as the case may be, is obtained beforehand. Elsewhere, the constitution allows the President12 or the governor 13 to attend any meeting of the National Assembly or State House of Assembly, respectively, either to deliver an address on national or state affairs or to make such statements on policy of government as he considers to be of National or State importance. By the same token, a Minister of the Federal Government is obliged to attend either House of the National Assembly, if invited to explain to the House the conduct of his ministry and in particular when the affairs of that ministry were under discussion.

Similarly, a Commissioner of a state if invited to explain to the Assembly the conduct of his ministry and in particular when the affairs of that ministry were under discussion.

The legislature, on its part is empowered under section 143 and 188, of the 1999 Constitution to initiate, carryout and conclude the impeachment proceedings of the president or the vice-president;

the Governor or the Deputy Governor. Thus in *Attorney General of The Federal & Ors v. Atiku Abubakar & Ors,*[9] the Supreme Court opined that:

> Impeachment or removal of the President or Vice President from office by the National Assembly is a strong political weapon and solution to political problems that may arise in the Presidency either in the discharge of the constitutional function or conduct of the personality involved. Additionally, although a panel is to be appointed by the Chief Justice of Nigeria, or the Chief Judge of a state, as the case may be, to carryout certain investigations, such a panel will still submit it report to the legislature. Worst still, subsection (10) of both sections ousts the court's jurisdiction to inquire into the outcome of the impeachment proceedings.

Again, the legislature must confirm all executive appointment of ministers and commissioners, who form an integral part of the executive. The National Assembly by virtue of the provision of section 80 of the constitution has authority over public funds and to determine the remuneration of members of the executive and the judiciary. However, such remuneration must be charged on the Consolidated Revenue Fund. It must also not exceed what the Revenue Mobilization and Fiscal Commission prescribe.

Again, although the primary duty of the legislative is to make laws yet the constitution empowered it to conduct investigations, (which are strictly a

[9] 16 (2007) 10 NWLR (Pt. 1041) 1 at 125 (Para. E-F)

quasi-judicial Act) in order, amongst other things, to expose corruption, inefficiency or wastes in the execution or administration of funds appropriated by it.

It is important to note that the doctrine separation of power is relevant to the topic of study because it seeks to protect the rule of law and prevent exercise of arbitrary power by the sovereign. More so, it prevents arbitrary judgments, secures justice and prevents tyranny and oppression.

2.3 Interpretation of Statutes

Statutory interpretation is the process by which courts interpret and apply legislation. Some amount of interpretation is often necessary when a case involves a statute. Sometimes the words of a statute have a plain and a straightforward meaning. But in many cases, there is some ambiguity in the words of the statute that must be resolved by the judge. The aim of statutory interpretation is to arrive at the legal meaning of legislation, or in other words, the meaning that conveys the legislative intention. The primary indication of legislative intention is the legislative text, read in context and having regard to its purpose. The court should aim to give effect to the purpose of legislation by interpreting its language, so far as possible, in a way which best gives effect to that purpose.[10] To find the meanings of statutes, judges use various tools and methods of statutory interpretation, including traditional canons of statutory interpretation, legislative history, and purpose. In common law jurisdictions, the judiciary may apply rules of statutory interpretation both to legislation enacted by the legislature and to delegated legislation such as administrative agency regulations.

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[10] Lexis Nexis, Methods of Statutory Interpretation used to Resolve Disputes about the meaning of Legislation 2021 MSIRDL < Methods of statutory interpretation used to resolve disputes about the meaning of legislation | Legal Guidance | LexisNexis> accessed 3rd March 2022>

Statutory interpretation first became significant in common law systems, of which historically England is the exemplar. In Roman and civil law, a statute (or code) guides the magistrate, but there is no judicial precedent. In England, Parliament historically failed to enact a comprehensive code of legislation, which is why it was left to the courts to develop the common law; and having decided a case and given reasons for the decision, the decision would become binding on later courts.

Accordingly, a particular interpretation of a statute would also become binding, and it became necessary to introduce a consistent framework for statutory interpretation. In the construction (interpretation) of statutes, the principle aim of the court must be to carry out the "Intention of Parliament", and the English courts developed three main rules (plus some minor ones) to assist them in the task. The different rules of interpretation followed by the court in various cases include:

Literal interpretation rule:

This is interpreting the statute based on the plain meaning. Where the words of the statute is clear and unambiguous, then the court should apply and interpret the word in its natural sense. This rule stemmed from The Sussex Peerage case.[11] In Our Line Ltd V. S.C.C (Nig) Ltd[12], the Supreme court started that "the rule is that in construing a written instruments, the grammatical and ordinary sense of the words should be adhered to unless that would lead to some absurdity or some inconsistency with the rest of the instrument.

One of the criticism against the application of the Literal rule of interpretation of statute is that it could lead to absurdity and injustice. It has also failed to recognized that although a word can have a core meaning, the fringe meaning can be manipulated.

[11] (1844) 8 ER 1034
[12] (2009) JELR 47311 (SC)

Golden rule of interpretation:

This rule evolved from the case of *Grey V. Pearson*[13] The court held that. "The grammatical and ordinary sense of the words is to be adhere to unless that would lead to some absurdity or some repugnance or inconsistency with the rest of the legislation in which case the grammatical and ordinary sense of the word may be modified so as to avoid the absurdity and inconsistency but no further"

The rule provide that where the strict application of the strict application of the literal rule would lead to absurdity and inconsistency, the court should modify the language so as to know the true intent of the legislature. The golden rule recognized that the natural meaning of a word should be applied unless its application would lead to absurdity and injustice.

In *Bronik Motors V. Wema Bank,*[14] Idigbe JSC stated that

> "where a judge is of the opinion that the application of the words of an enactment In their ordinary meaning would produce an absurd result which cannot reasonable be supposed to have been the intention of the legislature, he may apply the words in any secondary meaning which they are capable of bearing.

Mischief rule of interpretation:

It evolved from *The Heydon Case*[15] The rule set to correct the wrong and advanced the remedy and prevent the continued existence of such mischief. The judges, in using the Mischief rule of

[13] (10 E.R 1216).
[14] (1983) ALL NLR 227
[15] (1584)3 Co Rep 7a.

interpretation can go beyond the words used so as to know the purpose and objective of the statute. The various rules of interpretation of statutes are at the disposal of the judges so as to promote the full course of Justice in the society.

Intrinsic and Extrinsic Aids

Intrinsic aids: These are matters within an Act itself which may help make the meaning clearer. The court may consider the long title, the short title and any preamble. Other useful internal aids may include headings before a group of sections and any schedules attached to the Act. There are also often marginal notes explaining different sections; however, these are not generally regarded as giving Parliament's intention as they will have been inserted after parliamentary debates and are only helpful comments put in by the printer. Some Acts include sections in which words are expressly defined. For example, the 1963 Animal Boarding Act section 5(2) states: 'In this Act animal means any dog or cat.' The Interpretation Act 1978 section 6 also states that unless the contrary intention appears, words importing the masculine gender also include the feminine and words importing the feminine gender also include the masculine. In addition, words in the singular also include the plural and words in the plural include the singular. These intrinsic aids are as follows

Long Title

Preamble and Preamble to Constitution

Headings Marginal Notes

Punctuations, Illustrations

Proviso

Explanation and Non Obstante Clause.

All these will be discussed more elaborately in chapter 4 of this work.

Extrinsic aids: These are matters which may help put an Act into context. Sources include previous Acts of Parliament on the same topic, earlier case law, dictionaries of the time, and the historical setting. Extrinsic aids also include international conventions, regulations or directives which have been implemented by English legislation. It is thought that English law should be interpreted in such a way as to be consistent with international law. Section 3 of the Human Rights Act 1998 expressly states that as far as it is possible to do so, an Act must be read and given effect in a way which is compatible with the rights in the European Convention on Human Rights. This only applies to any case where there is an issue of human rights.[16]

Interpretation of statutes

The constitutional role of the courts is simply to interpret and to apply points of law derived from Acts of Parliament and delegated legislation. In short, they are responsible for applying the law and therefore, they must be a superior law-making body and independent from all government body. When judges are interpreting statutes their aim is to give meaning to a disputed point of legislation as to show what Parliament appears to have intended called interpretation. The Interpretation Act 1978 provides some terms to be used. Some may be plain and have a straightforward meaning and some may be ambiguous and vague.

The words used in the statute are the main focus of the interpretation exercise and limit the freedom of the court. If any injustice occurs after a statute was interpreted, the court is not free to create

[16] Alison; *Intrinsic and Extrinsic Aids.* 2013

laws to fill the gap. Statutory interpretation is therefore an exercise carried out by the court, with the aid of rules and procedures that are intended to decipher ambiguous and vague legislation.

In determining the actual meaning of the legislation, judges may use three traditional rules of interpretation which the court will employ to determine the intention of the statute. The courts also rely on rules of language and materials to assist in statutory interpretation. The three traditional rules of interpretation are the literal rule, the golden rule and the mischief rules of interpretation of statutes.[17]

2.4 Historical Development of Aids to Interpretation of Statutes.

Statutory interpretation first became significant in common law systems, of which historically England is the exemplar. In Roman and civil law, a statute (or code) guides the magistrate, but there is no judicial precedent. In England, Parliament historically failed to enact a comprehensive code of legislation, which is why it was left to the courts to develop the common law; and having decided a case and given reasons for the decision, the decision would become binding on later courts.

Accordingly, a particular interpretation of a statute would also become binding, and it became necessary to introduce a consistent framework for statutory interpretation. In the construction (interpretation) of statutes, the principle aim of the court must be to carry out the "Intention of Parliament", and the English courts developed the three main rules (plus some minor ones) to assist them in the task.

[17] Interpretation of Statutes, https://lawteachers.net <accessed 15th, January 2022>

Statutes may be presumed to incorporate certain components, as Parliament is "presumed" to have intended their inclusion.[18] For example offences defined in criminal statutes are presumed to require *mens rea* (a guilty intention by the accused), *Sweet v Parsley.*[19] A statute is presumed to make no changes in the common law. A statute is presumed not to remove an individual's liberty, vested rights, or property. A statute is presumed not to apply to the Crown. A statute is presumed not to empower a person to commit a criminal offence. A statute is presumed not to apply retrospectively (whereas the common law is "declaratory", *Shaw v DPP)*[20]. A statute is to be interpreted so as to uphold international treaties; and any statutory provision which contravene EC treaties are effectively void.

It is presumed that a statute will be interpreted ejusdem generis, so that words are to be construed in sympathy with their immediate context. Where legislation and case law are in conflict, there is a presumption that legislation takes precedence insofar as there is any inconsistency. In the United Kingdom this principle is known as parliamentary sovereignty; but while Parliament has exclusive jurisdiction to legislate, the courts (mindful of their historic role of having developed the entire system of common law) retain sole jurisdiction to interpret statutes. The age old process of application of the enacted law has led to formulation of certain rules of interpretation. According to Cross, "Interpretation is the process by which the courts determine the meaning of a statutory provision for the purpose of applying it to the situation before them,"[21] while Salmond calls it "the process by which the courts seek to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed".[22] Interpretation of a particular statute depends

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[18] Trevour Lyons: *Notes on English Legal system* 2016
[19] (1970) AC 132
[20] (1962) AC 2020
[21] Rupert Cross, *Statutory Interpretation* (3rd edn, Butterworths 1995)
[22] Sir John William Salmond, *Jurisprudence* (11th edn, Glanville Williams 1957)

upon the degree of creativity applied by the judges or the court in the reading of it, employed to achieve some stated end. A statute can be interpreted by using the Golden Rule, the Mischief Rule or the Literal Rule.

2.5 Literature Review

Quite a number of scholars have examine issues surrounding statutory interpretation. Their research gives credence to the necessity to properly understand how legislative drafters can improve legislative draft drawing from the experience and attitude of courts to aids to statutory interpretation. In the context of this dissertation, these scholars include Shiva, Atseqgba etc and their findings make this dissertation both interesting and necessary.

Shiva Satiya[23] did a comparative analysis of the various aids to interpretation of status wherein he focused majorly on the internal aids to the interpretation of status. While he focused on the internal aids which are also known as the intrinsic aids he also went further to discuss their limitations and how insufficient they could be for the effective interpretation and application of a statute. In his opinion, the courts may only have recourse to extrinsic aids where the intrinsic aid leaves a lacuna. Couched in other words, a choice of an aid to interpretation to be adopted by the courts should not solely depend by their discretion but by the inability of an internal or intrinsic aid failing to administer justice. Shiva serially outlined the varous intrinsic and extrinsic aids to interpretation of statutes and also stated their respective disadvantages. One among the disadvantages he pointed out was on the incompetence of a short tittle to count as an aid for the courts to interpret a statute. In his opinion a short tittle merely gives a nomenclature to a statute and nothing more. In a nutshell,

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[23] Shiva Satiya; *Internal Aids to Construction* (2009)

he argues that intrinsic aids can qualify as aid to interpretation of statutes. For avoidance of doubt his assertion is reproduced herein:

> It is merely a name given for identification of the Act and not for description and generally ends with the year of passing of the Act, such as the Indian Contract Act, 1872, the Indian Penal Code, 1860, the Indian Evidence Act, 1872. Even though it is a part of the statute, it has no role to play while interpreting a provision of the Act. Neither can it extend nor can it delimit the clear meaning of a particular provision.

Going further he also argues that in the olden days the long title was not considered a part of the statute and was, therefore, not considered an aid while interpreting it. He believes there has been a change in the thinking of courts in recent times and there are numerous occasions when help has been taken from the long title to interpret certain provisions of the statute but only to the extent of removing confusions and ambiguities. If the words in a statute are unambiguous, no help is derived from the long title. For his argument he advanced the following authorities; In *Poppatlal Shah v. State of Madras,*[24] the title of the Madras General Sales Tax, 1939, was utilised to indicate that the object of the Act is to impose taxes on sales that take place within the province. In the case of *Amarendra Kumar Mohapatra v. State of Orissa*[25] the Court has held that the title of a statute determines the general scope of the legislation, but the true nature of any such enactment has always to be determined not on the basis of the label given to it but on the basis of its substance.

[24] AIR 1953 SC 274-

[25] AIR 2014 SC 1716

Law Resource[26] asserts that to assist judges in interpreting statutes there exist various aids that they may refer to. Aids to statutory interpretation are divided into internal aids and external aids. These are sometimes referred to as intrinsic aids and extrinsic aids to interpretation. The author here merely discussed the intrinsic and extrinsic aids to interpretation but, however, remained silence as to the efficiency of one aid of interpretation over the other not even to mention the attitude of the courts towards the application of these aids to interpret statutes. The writer here placed emphasis on external aids to the interpretation os statutes. Hansard (an equivalent of parliamentary plenary) is one of such external document that could constitute an aid to the interpretation of a statute. He also added that the court often introduce three basic languages to aid them in interpretation to wit; *ejusdem generius rule, expressio unius est exclusio alterius and noscitur a sociis.* The above stated rules in his opinion are most appropriate in the interpretation of statutes.

Rashi Choudhary[27] in his work attempted to draw a clear court distinction between interpretation and construction of statutes as well as the suitable parameters for having recourse to a particular aid to interpretation of statutes. He quoted Blackstone thus:

> The most fair and rational method for interpreting a statute is by exploring the intention of the legislature through texts, the subject matter, the effect and consequences or the spirit and reason of law.[28]

Moving further he also quoted Cooley thus:

[26]E-lawresources.co.uk, Aids to Statutory Interpretation <Aids to statutory interpretation (e-lawresources.co.uk)> accessed 13th January 2022
[27] Rashi Choudhary; Interpretation of statutes: A complete study to an Aids to interpretation
[28] Blackstone; Commentaries on the Laws of England vol.1, p59

> Interpretation is the art of finding out the true sense of any form of words and enabling others to drive from them the same meaning which the author intended to convey, whereas, construction is the process of drawing conclusions, respecting subjects that lie beyond the direct expression of the text, which are in the spirit though not within the letter of law.[29]

To the author, basically, interpretation is a process of discovering, from permissible data, the meaning and intension of the legislature and if interpretation discloses clear meaning and intention of the legislature it will be directly applied to factual circumstances but if interpretation doesn't disclose clearly the meaning in context of factual circumstances, then construction will be adopted to seek to assign meaning or intention to the words used by the legislature. It is clearly drawn from the author's opinion that construction is more concerned with applying the meaning to the factual circumstances than merely ascertaining the meaning of the words of provision.

In a nutshell, Rashy Chaudhary was more concerned in the coinage and misconception of the terms 'interpretation' and 'construction' rather than the attitude of the courts towards the adoption of either the intrinsic or the extrinsic aid to interpretation of statutes.

An online article tagged Aids to Interpretation of Statutes[30] an attempt is made by the author to give a general view of internal (intrinsic) and external (extrinsic) aids which are of most practical utility in interpreting statues. According to the author the importance of use of these aids is manifest, in any case, where difficulty arises as to finding out the true intention of the legislature,

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[29] Cooley, *Constitutional Limitation,* Vol. 1, P97
[30] Aids to Interpretation of Statutes; <https://niu.edu.ng<accessed > accessed 13th January 2022

the use of these materials could be made by the Courts. Although, the writer made reference to other jurisdictions in his research, he however, based his emphasis on India as a jurisdiction.

Universally, it is agreed that the primary duty of courts is to interpret laws to give effect to the intention of the parliament. Singular as this task appears, the means of actuating it is diverse and intricate. This is not surprising- words, which serve as medium of expression through which the legislature articulate its intent, cannot be said to be a perfect symbol of communication to the exact point of accuracy owing to its unfixed nature and the possibility of gaining uncertain meaning depending on usage. In addition, there exist inevitable and unforeseeable social-political circumstances, which may warrant the contextual analysis of Statutes to discover the intent of the legislature. Owing to these, rules developed at common law embodying principles upon which statutes were interpreted. The most important of these rules are the literal rule, the golden rule and the mischief rule of interpretation. There is also the purposive approach to the interpretation of statutes. The utilization and application of these rules to each case has far-reaching implications and ultimately determine the outcome of cases decided based on statutory provisions. In an attempt at analyzing the desirability of these rules of interpretation and how they have been applied by our courts, this article examines the case of Marwa & Anor v Nyako & Ors in light of other decisions of our courts. This essay discovers that the rules of statutory interpretation as well as the tools of statutory construction have been applied without much adherence to any specific determinant principles in choosing which rule of interpretation or tools of construction to use in each case. The essay concluded that there is a gradual erosion by the courts from statute interpretation towards statute construction, which though may suffice for political as well as social exigencies, would

definitely adversely affect judicial precedence and judicial consistency on which our legal system is built.[31]

Gbade Akinrinmade,[32] argues that the application of the principles of statutory interpretation cuts across every area of legal practice. This position attests to the importance of the principle of statutory interpretation to legal practice. However, legal curriculum in Nigeria and in most common law countries both at the undergraduate and postgraduate levels has failed to give this area of law the prominence it deserves in their respective law curricula. Aside from this, the continued classification of the various rules of interpretation as distinct/separate rules of interpretation makes this field of study unintelligible and difficult to comprehend because of the complexity of words. In addition, each of the principal rules of statutory interpretation has inherent shortcomings, which has led to delay in judicial administration and caused injustice. Gbade's work reiterates the need to lay emphasis on this area of study in law curriculum, ex-rays the current rules of statutory interpretation as applicable in Nigeria, and draws inspiration from the practice in English and Indian jurisdictions. His research also advocates that resort should be had to the purposive approach which is a harmonization of the principal rules of statutory interpretation subject to emerging realities of justice and developments in order to ensure that the end of justice is appropriately served.

In a nutshell, Gbade's work is an examination of the principal rules of statutory interpretation in Nigeria, along with internal and external aids in place to resolve interpretational difficulties. It also reiterate the importance of words to lawyers and the need to update law curriculum in this regard. The paper concludes that the continued classification of the various rules as separate and distinct

[31] *Taming the Unruly Horse of Rules of Interpretation*: A review of Marwa & Anor v Nyako & Ors
[32] Gbade Akinrinmade; *Statutory Interpretation: Whither Nigerian Jurisprudence?* Dept. of Jurisprudence and International Law, Olabisi Onabanjo University, Ago-Iwoye, Ogun-State Nigeria. Vol 9 pg. 68-69

rules is no longer tenable. The Purposive approach, a revamped / harmonized version of the principal rules of statutory interpretation, should be the sole rule of statutory interpretation in Nigeria subject to human exigencies and interest of justice. Reason being that one of the attributes of an egalitarian society is its dynamism, that is, the ability to change over time. Thus, law should not be static. It must change as human nature changes from time to time. Prof Lawrence Asegbua[33] postulates that it is an accepted fact that words have no proper or specific meaning until they are put into a context of situation. A word may either bear the meaning put upon it by the user; that put upon it by the recipient, or the ordinary meaning. As a result of the uncertainty over the meaning of words, statutory interpretation has been described as a non-subject. The courts in their attempt to construe ambiguous statutory provisions have developed rules and principles which will aid them in this regard. In his view, where the words used in a statute are direct and straight forward and unambiguous, the construction of those words must be based on the ordinary plain meaning of the words.

It can, therefore be gathered from his submission that there is no need for the courts to have recourse to extrinsic aids to interpretation thus bringing to the fore the limitation of his work.

Olarenwaju Olamide[34] in his work acknowledged the extrinsic aids to judicial interpretation having regards to their respective limitations in terms of applicability. He acknowledged the efficiency of the extrinsic aids such as the literal rule, the golden rule and the mischief rule and went as far as outlining the various limitations that surrounds their applicability. In his view, none of these rules can be followed to the latter otherwise they would occasion injustice. The rationale

[33] Proff. Lawrence Asegbua; *The Supreme Court doctrine in the interpretation and construction of statutes* (2) June 14, 2012 https://www.vanguardngr.com/2012/06/the-supreme-court-doctrine-in-the-interpretation-and-construction-ofr-statues-2/am/p accessed 18 February 2022

[34] : Olarenwaju Olamide; *Interpretation of Statutes*

behind his postulation is that the world and our society is an evolving one and as such some words are bound to change their literal meanings or capable of having a connotational meaning in the course of time; where recourse is not had to alternative interpretational aids there would be a miscarriage of justice. However, he remained silent on the courts attitude towards the application of these aids to interpretation; which should precede the other.

Ari Tobi-Aiyemo[35] postulates thus:

Since the formation of the Nigerian judiciary, courts have operated using the common law system with the doctrine of stare decisis (i.e., judicial precedents). This doctrine has shaped the context of judging in Nigeria, especially as strict adherence to precedent somewhat impacts the use of judicial discretion in the interpretation of statutes. Judging is not static and does not happen in a vacuum. Rather, judging should change over time and respond to context as strict adherence to precedent alone may interfere with the advancement of justice. His research work sought to redefine the act of judging in Nigeria to embrace the context of social realities. It aimed at encouraging judges to interpret statutes and apply judicial discretion within important social contexts that are considerate of relevant social views, values and interests (thus interweaving law and society). His thesis examined various judicial approaches to interpretation of statutes and established canons of statutory interpretation and emphasized that it is now more important than ever for judges to use 'appropriate' discretion from a social perspective when interpreting statutes. This is especially the case with ambiguous statutory provisions and constant changes in the law and society. While he recommended that legal jurisprudence change as culture and social values changes, his thesis

[35]Ari Tobi-Aiyemo; *The Act of Judging in Nigeria: A Matter of Interpretation and Judicial Discretion* (May 2019)

explicitly opposed judging stereotypically based on strict common law principles of precedent currently used most often in Nigeria.

To Sylvester Udemezue[36] the principle of law is that where the setting, provisions, context and object of an enactment have provided sufficient guidance for interpretation of the words used for purposes of such enactment, there is no need to have recourse to any extrinsic/external materials. Put differently, where the statute itself contains within itself, sufficient provisions to help to determine the meaning of any word or words used in the statute, the courts are to not look at anything outside the statute.

Explaining the crucial role Internal Aids play in statutory interpretation, Rayhanul Islam[37] argues that the legislature is entitled to lay down legal definitions of its own language, and where such definitions are embodied in the statute itself, it becomes binding on the courts. According to him, when the statute itself has provided a dictionary other definition within the statute itself, for the words used, the court must look into such an internal dictionary for interpretation. Accordingly, although external aids are useful tools for the interpretation or construction of statutory provisions, courts take recourse to external aids only when internal aids are either not forthcoming or non-existent.

From the foregoing reviews, it is not inappropriate to conclude that Shiva places little or no relevance to the intrinsic or internal aids to interpretation of statutes but rather gives credence to the external aids and canons. LawResource on the other hand gave credence to other external aids to interpretation thereby disregarding the internal aids to interpretation. Rashi Choudhary on his

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[36] Sylvester C. Udemezue; *Place of Internal and External Aids to Statutory Interpretation In the Light of Legitimaeness of Jurisdictive Discretion* (May 2016)

[37]Riya LN, Bangladesh LH and Rayhanul Islam, *"Internal Aid of Interpretation"* (Law Help BD July 15, 2019)

own part argues that the best way to interpret any statute is to inquire into the intention of the legislatures who drafted the statute; any interpretation which does not reflect the true intent and purpose of the legislature is in his opinion absurd and not justiciable. Gbade in his opinion argues that before any aid to interpretation of statute is adopted full regards must be had to the applicability of such rule of interpretation and its compatibility with the populace who are the subject of that law. Consequently, he advocated for the purposive approach which is a combination of all the rules of interpretation of statutes. He however, left a vacuum by not analyzing how to determine this compatibility of the people with the proposed rule of interpretation. Going further, Lawrence Asegbua totally disregarded all extrinsic aids; what then happens when all intrinsic aids embed in the statute have failed to prove sufficient?

Generally, the various literatures reviewed above reveals that all the authors are at par with each other on grounds that there actually do exists both extrinsic and intrinsic aids to the interpretation of statutes; there however seems to be a contradiction in their various positions as to which of these aids to interpretation would ensure that the intent of the draft man is well captured. There also seems to be inconsistencies with the various authors as to which of these aids to interpretation would occasion the effective administration of justice. More so, the above research works are silent on the attitudes of the Nigerian courts in applying these various aids to interpretation.

The queries from the above reviewed literatures abound. It is against this backdrop that this research is embarked upon to draw inspiration from these its findings in demonstrating how intrinsic and extrinsic aids could help in statutory interpretation and also attempt to close any gaps observed in extant research works within the limits of this dissertation.

2.6 Gap in Knowledge

The continued classification of the various rules of interpretation as distinct/separate rules of interpretation makes this field of study unintelligible and difficult to comprehend because of the complexity of words.

Each of the principal rules of statutory interpretation has inherent shortcomings, which has led to delay in judicial administration and caused injustice. The legal jurisprudence change as culture and social values changes, thus, there is no need to base judgment on stereotypes based on strict common law principles of precedent currently used in Nigeria.

There is need to lay emphasis on this area of study in law curriculum, ex-ray the current rules of statutory interpretation as applicable in Nigeria, and draw inspiration from the practice in English and Indian jurisdictions. The Purposive approach, a revamped / harmonized version of the principal rules of statutory interpretation, should be the sole rule of statutory interpretation in Nigeria subject to human exigencies and interest of justice. Reason being that one of the attributes of an egalitarian society is its dynamism, that is, the ability to change over time. Thus, law should not be static. It must change as human nature changes from time to time.

Judges ought to interpret statutes and apply judicial discretion within important social contexts that are considerate of relevant social views, values and interests (thus interweaving law and society).

2.7 Theoretical Framework: Intrinsic and Extrinsic Aids to Interpretation of Statutes

An Aid is a device that helps or assists. For the purpose of construction or interpretation, the court has to take recourse to various internal and external aids. Internal aids mean those materials which are available in the statute itself, though they may not be part of enactment. These internal aids include, long title, preamble, headings, marginal notes, illustrations, punctuation, proviso, schedule, transitory provisions, etc. When internal aids are not adequate, court has to take recourse to External aids. External Aids may be parliamentary material, historical background, reports of a committee or a commission, official statement, dictionary meanings, foreign decisions, etc. *B. Prabhakar Rao and others v State of A.P. and others*[38] , O.Chennappa, Reddy J. has observed : "Where internal aids are not forthcoming, we can always have recourse to external aids to discover the object of the legislation. External aids are not ruled out. This is now a well settled principle of modern statutory construction." In *District Mining Officer and others v Tata Iron & Steel Co. and another,*[39] *the* Supreme Court has observed: "It is also a cardinal principle of construction that external aids are brought in by widening the concept of context as including not only other enacting provisions of the same statute, but its preamble, the existing state of law, other statutes in pari materia and the mischief which the statute was intended to remedy." Again in *Varghese v Income Tax Officer Ernakulam,*[40] The Supreme Court has stated that interpretation of statute being an exercise in the ascertainment of meaning, everything which is logically relevant should be admissible.

The orthodox jurisprudential theory that judicial thinking is rarely originative, but involves normally only the discovery and application of pre-existing law, is implemented by two concepts

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[38] *AIR 1986 SC 120*
[39] (2001) 7 SCC 358
[40] AIR 1981 SC 1922

or formulae which, supposedly, enable judges to extract neat rules of decision for particular cases from the approved legal sources. In the decision of controversies according to the common law, the formula is that judges are bound to follow the "holdings" or rationes decidendi of the decisions of the past. In the judicial application of statute law, the basic conception is that doubts as to the meaning or legal effect of statutory provisions are to be resolved in accordance with "the intention of the legislature." Pointing out that there is in our law no accepted measure by which the "holding" or ratio decidendi of a past case is to be determined.[41] Modern legal realists have won general acceptance for their thesis that it is unrealistic to consider judges as wholly bound by the "holdings" of past cases, since they have the power, within vague and undefined limits, to determine what those "holdings" actually are. Similarly, it is argued vigorously that the notion of "legislative intention" is a concept of purely fictional status, and that the judicial application of the statute law should be governed rather by the personal conviction of the judge with respect to the worth of the competing interests involved in particular controversies.[42] It is beyond the scope of the present research to consider in detail the essential reality of the concept of "legislative intention."[43] It is true, of course, that the decision of particular case by reference to the general commands of the statute law involves problems as difficult as those inherent in common law judicial decision. A legislative direction must be expressed in words, and words are notoriously inexact and imperfect symbols for the communication of ideas.[44] To determine from the language of an enactment the

[41] See, for example, Llewellyn, The Rule of Law in Our Case Law of Contract (1938) 47 Yale L. J. 1243, in which the author enumerates seven different measures which courts actually apply in determining the proposi- tion of law or "holding" which a precedent may be taken to establish. And see Oliphant, A Return to Stare Decisis (1924) 14 A. B. A. J. 71.
[42] For a trenchant statement of this point of view see Radin, Statutory Interpretation (1930) 43 Harv. L. Rev. 863.
[43] On the general subject, see Landis, A Note on Statutory Interpretation (1930) 43 Harv. L. Rev. 886; Horack In the Name of Legislative Intention (1932) 38 W. Va. L. Q. 119; Corry, Administrative Law and the Interpretation of Statutes (1936) 1 U. of Toronto L. J. 286. An analysis of the concept of "legislative intention," by the present writer, will appear in a forthcoming number of the Columbia Law Review.
[44] Ogden & Richards, The Meaning of Meaning (1923); Chase, The Tyranny of Words (1938).

"Legislative intention," in the sense of a pre-existing understanding as to its meaning or legal effect, may involve semantic problems of almost insurmountable difficulty. If, in Lieber's definition,[45] "Interpretation is the art of finding out the true sense of any form of words, that is the sense which their author intended to convey," it is evident that any serious effort on the part of judges to discover the thought or reference behind the language of a statute must be based upon a painstaking endeavor to reconstruct the setting or context in which the statutory words were employed.[46] Even more difficult are the cases in which the governing interpretative issue is one which was not, and perhaps could not have been, foreseen even in the most general outline by the legislators responsible for the enactment. In such cases more is required of the judge than the discovery of a pre-existing and ascertainable meaning; the "interpreting" judge must perform the originative function of assigning to the statute a meaning or legal effect which it did not possess before his action.[47] Dean Landis has remarked that the term, "legislative intention," may be taken to signify either the more immediate concept of meaning or the teleological concept of purpose.[48] The principle that courts are bound to follow "the intention of the legislature" requires, in this latter signification of "intention" that interpretative issues, unforeseen specifically by the legislators, should be resolved in such a way as to advance rather than to retard the attainment of the objectives which the legislators sought to achieve by the enactment of the legislation. It is evident that a judge

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[45] Lieber, Legal and Political Hermeneutics (3d ed. 1880, by W. G. Hammond) 11.
[46] " * * * any ascertainment of the meaning of language requires con- sideration of the atmosphere in which the conveyance originated, and ascer- tainment of the associations or connections understood by the conveyor to exist between the terms of the conveyance and the various possible objects in the external world. By this process, selected symbols which imperfectly symbolize the conveyor's idea are made more understandable, and the danger, that a selected symbol will call up in the mind of the construer a different idea from that which the conveyor intended to symbolize, is lessened. Language is capable of clear meaning only when read in the light of the circumstances of its employment." Restatement, Property, Explanatory Notes (Tent. Draft No. 7, 1937) sec. 241, quoted in R. Powell, Construction of Written Instrument (1939) 14 Ind. L. J. 231.
[47] "Interpretation is often spoken of as if it were nothing but the search and the discovery of a meaning which, however obscure and latent, had none the less a real and ascertainable pre-existence in the legislator's mind. The process is, indeed, that at times, but it is often something more." Cardozo, The Nature of the Judicial Process (1921) 14. Compare Gray, The Nature and Sources of the Law (1909) 165. 1939]
[48] Landis, A Note on Statutory Interpretation (1930) 43 Harv. L. Rev. 886.

cannot, from a bare reading of the text of a statute, form any accurate idea either of the construction placed upon it by its framers, or of the purposes which the members of the legislature sought to accomplish by its passage.[49]

Judicial reference to the actual circumstances of the passage of the legislation, that is, to its. legislative history and to the clarifying statements made in committee reports and during discussion on the floor by responsible legislators, is the prerequisite to intelligent comprehension of "legislative intention" in either sense. If a legislative understanding with respect to the interpretative issue of a given case actually existed, it can be discovered only when the statutory language is put in its full context. If such a specific understanding is non-existent or undiscoverable, "legislative intention," in the sense of the moving purposes underlying the legislation, must be found in sources of the same, or of even more comprehensive, character.

2.8 Research Methodology

The researcher used the doctrinal method which is the reliance on principles and doctrines of law in the analysis of the questions raised in the research. This is mainly to examine the Attitude of the Nigerian courts to the use of intrinsic and extrinsic aids to interpretation of statutes. Fundamentally, since this research revolves around the attitude of the Nigerian courts towards the interpretation of statutes, the researcher greatly relied on decided cases. What then is doctrinal research? Doctrinal research: Doctrinal is a derivative of 'doctrine' which means "a principle, especially a legal principle that is widely adhered to."[50] To Ian Dobinson and Francis Johns, Doctrinal research can be defined in simple terms as research which ask what the law is in a

[49] "A word is not a crystal, transparent and unchanged, it is the skin of a living thought and may vary greatly in color and context according to the circumstances and the time in which it was used." Holmes, J., in Towne v. Eisner (1918) 245 U. S. 418, 425
[50] BLACK'S LAW DICTIONARY (9th ed. 2009) pg. 533

particular area. It is concerned with analysis of the legal doctrine and how it has been developed and applied. It consist of either a simple research directed at finding a specific statement of the law or a more complex and in depth analysis of legal reasoning.[51] The advantages of this type of research are as follows

A. To construct new legal theories, principles and doctrines, to test them and add new knowledge in the legal scholarship.[52]
B. Helps to maintain continuity, consistency and certainty of law.
C. Helps to provide lawyers, judges and others with the tools needed to reach decisions on an immense variety of problems, usually with very limited time at disposal.
D. Helps to advice courts clients about the application of legal doctrine to specific cases, transactions, or other legal events. To critically examine judicial opinions and in case of conflicts between the decisions of different court, to suggest the resolution to those conflicts.

The research therefore involved the use of primary sources and secondary sources of data. Primary source are those sources that provides raw information and first hand evidence.[53] It also gives you direct access to the subject of your research. Examples of primary sources used in this research are:

A. The 1999 Constitution of the Federal Republic of Nigeria
B. Case laws

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[51] Amrit Kharel, 'Doctrinal Legal Research' 2018 DLR <www.researchagate.net/publication/323762486_Doctrinal_Legal_Research> accessed 27 February 2022.
[52] Supra
[53] Raimo Streefkerk, 'Primary vs. Secondary Sources Explained with Easy Examples' 2018 PSSEEE <www.scribbr/citing-sources/primary-and-secondary-sources/> accessed 27 August, 2021.

Secondary source is anything that describes, interprets, evaluates, or analyzes information from primary sources. Examples of secondary source used in this research are:

A. Textbooks
B. Journals
C. Articles
D. Electronic sources

In this research work, I also used the Critical Analytical Method of analysis.

A critical analysis essentially involves reading and thinking widely in order to develop a deep understanding and a point of view in relation to the issue.

CHAPTER THREE

COMPARATIVE ANALYSIS OF THE USE OF STATUTORY INTERPRETATION

3.1 Statutory interpretation in Civil and Common Law Countries

This chapter attempts to identify how differently a common law lawyer in a Westminster system and a civil law lawyer in a civil law system like France might interpret statutory provisions. The key to understanding the difference is how the doctrine of separation of powers operates within each of their jurisdictions. There is a considerable difference in this respect. Common law lawyers and judges are expected to supplement statutory law by reference to the common law when this is intended or is needed to make sense of the statute. French civil lawyers, on the other hand, are expressly denied this role, being confined solely to the elucidation of the legislative intent. They are prohibited from filling any 'gaps' in the law simply because there are no gaps and because the statute is intended to be comprehensive. Despite the fact that there is a considerable difference in this respect, the principles of statutory interpretation bear a remarkable resemblance. Yet, in their application, differences are likely to emerge because of the starkly contrasting roles of the judiciary. But any assessment of that difference is hard to measure in view of the brevity of civil law judgments, particularly in France[54]

Within the United States, purposivism and textualism are the two most prevalent methods of statutory interpretation.[55] Purposivists often focus on the legislative process, taking into account the problem that Congress was trying to solve by enacting the disputed law and asking how the statute accomplished that goal. Purposivists believe in reviewing the processes surrounding the

[54] Statutoy Interpretation: Foreign perception; httsp://en.m.wikipedia.org<accessed 17th January 2022>
[55] Calabresi, Guido(2003) ; *What devides Textualists from Positivists*(Stanford LawReview)

power of the legislative body as stated in the constitution as well as the rational that a "reasonable person conversant with the circumstances underlying enactment would suppress the mischief and advance the remedy" Purposivists would understand statutes by examining "how Congress makes its purposes known, through text and reliable accompanying materials constituting legislative history.[56]

In contrast to purposivists, textualists focus on the words of a statute, emphasizing text over any unstated purpose. Textualists believe that everything which the courts need in deciding on cases are enumerated in the text of legislative statutes. In other words, if any other purpose was intended by the legislature then it would have been written within the statutes and since it is not written, it implies that no other purpose or meaning was intended. By looking at the statutory structure and hearing the words as they would sound in the mind of a skilled, objectively reasonable user of words textualists believe that they would respect the constitutional separation of power and best respect legislative supremacy.[57]

3.1.1 United Kingdom

The French philosopher Montesquieu (1689-1755) believed that courts should act as "the mouth of the law", but soon it was found that some interpretation is inevitable. Following the German scholar Friedrich Carl von Savigny (1779-1861) the four main interpretation methods are:

- Grammatical interpretation: using the literal meaning of the statutory text.
- Historical interpretation: using the legislative history, to reveal the intent of the legislator.

[56] Katzman, Robert A(2014) : *Judging Statutes*
[57] Manning, John F(2006); *What Devides Textualists from Purposivists*; Electroni Journal.

- Systematic interpretation: considering the context of provisions, if only by acknowledging in which chapter a provision is listed.
- Teleological interpretation: considering the purpose of the statute as it appears from legislative history, or other observations.

It is an accepted fact that words have no proper or specific meaning until they are put into a context of situation. A word may bear: (a) the meaning put upon it by the user,(b) that put upon it by the recipient, or (c) the ordinary meaning.

As a result of the uncertainty over the meaning of words, statutory interpretation has been described as a non-subject. The courts in their attempt to construe ambiguous statutory provisions have developed rules and principles which will aid them in this regards. As a result of the roles which the judges play in interpreting or construing statutes, Lord Devlin has concluded that, the law is what the judges say it is.[58] While this may be the practical effect of the role which the judges play in interpreting vague and ambiguous statutory provisions, it is the consequence that arises from the fluid nature of words used by the legislative draftsman.

When confronted with an ambiguous statutory provision, the basic task before the judge is to ascertain the intention of the legislature. In ascertaining the intention of the legislature, the courts have developed three basic rules. These are: the literal rule, the golden rule and the mischief rule. Let us examine these rules briefly.

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[58] Delvin's Debate; <https://www.Global.oup.org<accessed> accessed 11th Feb 2022

(a) The Literal Rule

According to Jervis, C.J[59]., if the precise words used in a statute are plain and unambiguous, in our judgment, we are bound to construe them in their ordinary sense, even though it do lead, in our view of the case, to an absurdity or manifest injustice. Similarly, the Supreme Court of Nigeria stated in *Africa Newspaper v. Federal Republic of Nigeria*[60], that: Where the words used in a statute are direct and straight forward and unambiguous, the construction of those words must be based on the ordinary plain meaning of the words.

If the intention of the legislature can be found in the ordinary and natural meaning of the words used, no difficulty arises. Where however, the words are ambiguous and are capable of more than one meaning, the literal rule of interpretation breaks down. The literal rule may therefore be regarded as expressing an irrefutable presumption, that the legislature intends the ordinary and natural meaning of the words it employs.

The modern approach to statutory interpretation was succinctly brought out by Lord Diplock in the case of *Carter v. Bradbeer,* when he said: If one looks back to the actual decisions of this House on the question of statutory construction in the last thirty years, one cannot fail to be struck by the evidence of a trend away from the purely literal, towards the purposive construction of statutory provisions.

The case of *Awolowo v. Shehu Shagari*[61], illustrates the need for a purposive approach to statutory construction. In this case, the issues before the court were inter alia: (a) What is the correct interpretation and application of section 34A (1) (c) (ii) of the Electoral Decree, 1977 as amended;

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[59] Vanguard; <https://www.vanguardngr.com> accessed 11th Feb 2022
[60] 1985- LCER 3122 -SC
[61] 1979 LCN/ 2141 (SC)

(b) Where under section 34A (1) (c) (ii) of the Electoral Decree two thirds of a state is synonymous with two thirds of the physical or territorial area of the state; (c) What is the duty of a court where there are two possible meanings conveyed by the words of a statute in question? (d) Whether the ordinary meaning of words used in a statute can form the subject of judicial notice.

The facts of this case were as follows: On 11th August 1979, the Federal Electoral Commission (FEDECO), a body charged with the duty of conducting election into the office (among other offices) of the President of the Federation, conducted an election into that office.

It is controversial whether there is a hierarchy between interpretation methods. Germans prefer a "grammatical" (literal) interpretation, because the statutory text has a democratic legitimation, and "sensible" interpretations are risky, in particular in view of German history. "Sensible" means different things to different people. The modern common law perception that courts actually make law is very different. In a German perception, courts can only further develop law (Rechtsfortbildung). All of the above methods may seem reasonable: It may be considered un-democratic to ignore the literal text, because only that text was passed through democratic processes. Indeed, there may be no single legislative "intent" other than the literal text that was enacted by the legislature, because different legislators may have different views about the meaning of an enacted statute. It may also be considered unfair to depart from the literal text because a citizen reading the literal text may not have fair notice that a court would depart from its literal meaning, nor fair notice as to what meaning the court would adopt. It may also be unwise to depart from the literal text if judges are generally less likely than legislatures to enact wise policies.

But it may also seem unfair to ignore the intent of the legislators, or the system of the statutes. So for instance in Dutch law, no general priority sequence for the above methods is recognized.

3.1.2 Ghana

Under Ghana's 1992 constitution, it is the province of the Supreme Court to interpret the Constitution. It is well known that there are various approaches to interpreting a constitution and these approaches yield different outcomes. Here we shall use one case decided by the Ghana's Supreme Court to show that a Court's interpretive paradigm can lead the Court to reach an outcome that departs from the text of the constitution. This result is unnecessary, perhaps even harmful, and arises because the Court views the interpretive paradigms as alternatives. Rather, the Court should first start by interpreting the constitution as written by the framers (i.e the plain meaning approach) and only resort to the other interpretive paradigms where the plain meaning approach fails (e.g, due to ambiguity or absurdity).

In *Asare v Attorney General,*[62] the Supreme Court announced the death of the "plain meaning" approach to judicial interpretation. Writing for a unanimous Court (Justice Kludze filed a concurring opinion), Justice Date-Bah provided the epitaph:

"What interpretation is to be given the words should depend upon the court's perception of the purpose of the provision and the context of the words, rather than on their dictionary meaning. The "plain meaning" approach to judicial interpretation is not necessarily the most apposite. In my view, words hardly ever have a meaning in vacuum. Words take on a meaning in association with the other words in whose context they are used. Therefore, the interpretation of words almost invariably means doing more than finding their mere dictionary (or "literal" or "plain") meaning.

[62] Writ No. 3/202, judgement delivered on 28/1/2004 pg 14

The Court did not define the "plain meaning" approach but the approach is commonly thought of as one where a Judge looks at the words of the Constitution and gives effect to the ordinary meaning of those words, without trying to infer any intended meanings. The rationale behind this approach, which is also called the literalist or textualist approach, is that Judges should interpret the words as written and promulgated to the people, not the unexpressed, and probably hard to discern, intent of the constitutional framers. A plain meaning approach looks for key phrases like, "A person who alleges that an enactment ... is inconsistent with this Constitution may bring an action in the Supreme Court for a declaration to that effect" and finds that "a person." means any person, not just citizens. Proponents of the plain meaning approach argue that it produces a value-free jurisprudence and it is fair because it gives effect to the law that was promulgated, rather than the law that the lawmaker intended. Critics, like Justice Date-Bah, claim the literalist approach represents a static, non-living document view of the Constitution.

In place of the literalist approach, the Court "out-doored" its purposive approach to judicial interpretation and applied the approach to the facts of Asare to hold that "where both the President and the Vice-President are absent from Ghana, they are to be regarded as unable to perform the functions of the President and thus the Speaker is obliged to perform those functions. In this note, I show that the pursuit of the purposive approach could lead to absurdities, including, as in Asare, inferring the meaning of article 60 (11) of the current constitution from article 38(3) of the 1969 constitution, in spite of the remarkable differences between the constitutions. I also argue that the Court's purposive approach is incompatible with democratic government and impermissibly allows the Justices to extend their common law powers to the constitutional field. The facts of Asare are as follows: On 21 February 2002, President Kuffuor wrote to the then Speaker of Parliament, Mr.

Ala Adjetey, informing the Speaker that the President would be travelling to Australia to attend the Commonwealth Heads of Government Meeting, scheduled to take place from 2 to 5 March 2002 and that he would be away from Ghana from 24 February until 10 March. He further informed the Speaker that during that period, because the Vice-President would also be absent from the country from the 24 to 27 February, the Speaker was, pursuant to article 60 (11) of the Constitution, to act as President for those four days. Accordingly, on 24 February, the Speaker swore the Presidential oath and acted for the President from the 24 to 27 February.5

Asare filed a writ at the Supreme Court, invoking the original jurisdiction of the court and sought

i. a declaration that upon a true and proper interpretation of article 60(11) of the 1992 Constitution, the purported swearing-in of the Speaker as President of Ghana, on or about Monday 24 February 2002, is inconsistent with, or is in contravention of the said provision of the Constitution and is therefore unconstitutional, void and of no effect;
ii. a perpetual injunction to restrain the Speaker of Parliament and any other person succeeding to the Office of Speaker of Parliament, from performing the functions of President of the Republic of Ghana except in the event of the President and the Vice-President being unable to perform the functions of the President.

Article 60(11) of the 1992 Constitution provides that: "Where the President and the Vice-President are both unable to perform the functions, the Speaker of Parliament shall perform those functions until the President or the Vice President is able to perform those functions or a new President assumes office, as the case may be." Other relevant provisions of article 60 provide that: "Whenever the President dies, resigns or is removed from office, the Vice-President shall assume office as President for the unexpired term of office of the President with effect from the date of the

death, resignation or removal of the President. Whenever the President is absent from Ghana or is for any other reason unable to perform the functions of his office, the Vice President shall perform the functions of the President until the President returns or is able to perform his functions. "The Vice-President shall, before commencing to perform the functions of the President under clause (6) of this article, take and subscribe the oath set out in the Second Schedule to this Constitution in relation to the office of the President." The Speaker shall, before commencing to perform the functions of the President under clause (11) of this article, take and subscribe the oath set out in relation to the office of President."

The issue was whether the President and Vice-President were unable to perform the functions of the President during their temporary absence from Ghana to perform official functions overseas.

The Court commenced its interpretative task by acknowledging that "though there are some Ghanaian cases which appear to lend support to the literalist approach to the interpretation of legal instruments, there are other cases, on the other hand, which lend support to the purposive approach. The Court then cited 3 cases that are illustrative of the purposive approach to interpretation and properly noted that these illustrative cases are not to be regarded as binding precedents on the subject of interpretative approach.[63] Curiously, the Court did not cite any illustrative cases of the literalist approach, nor did it even attempt to distinguish the cases that used the literalist approach from those that used the purposive approach. Citing a 1969 British case[64] the Court provides the conclusive opinion:

> "... I consider the purposive approach to be more likely to achieve the end of justice in most cases. It is a flexible approach which enables the judge to

[63] See, Asare v Attorney General, op.cit,. at p. 3-5.
[64] Corocrafi Ltd v Pan American Inc [1969)1 QB 622.

> determine the meaning of a provision, taking into account the actual text of the provision and the broader legislative policy underpinnings and purpose of the text."!!

Coming back to Nigeria, the Supreme Court of Nigeria stated in *Africa Newspaper v. Federal Republic of Nigeria*[65], that: Where the words used in a statute are direct and straight forward and unambiguous, the construction of those words must be based on the ordinary plain meaning of the words. If the intention of the legislature can be found in the ordinary and natural meaning of the words used, no difficulty arises. Where however, the words are ambiguous and are capable of more than one meaning, the literal rule of interpretation breaks down.

The literal rule may therefore be regarded as expressing an irrefutable presumption, that the legislature intends the ordinary and natural meaning of the words it employs.

The case of *Awolowo v. Shehu Shagari*[66], illustrates the need for a purposive approach to statutory construction. In this case, the issues before the court were inter alia: (a) What is the correct interpretation and application of section 34A (1) (c) (ii) of the Electoral Decree, 1977 as amended; (b) Where under section 34A (1) (c) (ii) of the Electoral Decree two thirds of a state is synonymous with two thirds of the physical or territorial area of the state; (c) What is the duty of a court where there are two possible meanings conveyed by the words of a statute in question? (d) Whether the ordinary meaning of words used in a statute can form the subject of judicial notice.

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[65] (1985) JELR, 42542 (SC)
[66] (1979) ANLR 105

3.2 How do Drafters take Cognizance and Make Use of the Aids to Statutory Interpretation?

The practical relevance of interpretation of statutes in our jurisprudence and most commonwealth countries manifest itself each time there is a dissenting or when the courts depart from its earlier decisions. Interpretation problems are treated with utmost care because of the doctrine of judicial precedent and its binding effects .The tool needed to solve the riddle of interpretations includes the interpretation Act, definitional clauses, law dictionary and decisions of superior courts of records defining a word or phrase.

This chapter focuses on how the draft man takes cognizance of and apply the rules of interpretation. Judicial notice need be taken of the fact that in almost every legislative jurisdiction, Interpretation Act is designed not only for the interpretation of statutes but also for their preparation, therefore the provisions of Interpretation Act or Law should always be kept in mind by draftsmen and unless there is a special reason for not doing so, he should prepare a statute in accordance with the provisions of Interpretation Act; this is because the Act contains basic rule about form, language, syntax and operations of legislation.

Legislative draftsman must be in a position to know exactly when the provisions of the Act will or might apply; he must take relevant provisions of the Act fully into account and ensure that its' requirement is precisely followed. In *Blue Metal Ind Ltd V Rw Dilley*[67] the Privy Council said thus about the Interpretation Act:

The interpretation Act is a drafting convenience, it is to be expected that it would be used so as to change the character of legislation…"

[67] 56 AC USA (1946) p. 7

In other words an interpretation Act does not operate to change the essential effect of an enactment to which it applies. Interpretation Act does not apply if the contrary intention appears from the Act in which the term question is used. The principle role of Interpretation Act to a drafter is to provide standard rules for efficient communication; to assist in achieving precision of the meaning of a word; to shorten the length of legislation; to exclude a meaning that otherwise would or might be taken to be included in the term defined; to attract a meaning already established by law. It is good practice for a draftsman to adopt for a particular legislation, the Interpretation Act in defining the words used in the legislation. However where the legislation does not apply generally to the entire country, in addition to the Interpretation Act, it may be necessary for a legislation to contain its own interpretation clause. For instance during the amendment of the 1999 constitution of the Federal Republic of Nigeria, the National Assembly erroneously believed that having received two-third endorsement from the states of the federation, the requirement of assent of the president was not required for validity.

The court in *Agbakoba v. NASS,*[68] relying on the Interpretation Act held that: "An Act of the National Assembly becomes Valid after the Assent of the President". The issue of interpretation of the provisions of our legislation is a recurring decimal in our juris corpus. The court in *Atiku v. INEC*[69] had this to say:

> it is settled principle of interpretation that a provision of the constitution or the statute should not be interpreted in isolation but rather in the context of the constitution and the Electoral Act as a whole shall be read together in

[68] 2010 vol4 LLRN page 2078.
[69] 2007 I SCNJ 1

> order to give effect and meaning to the rights and obligation of individuals”.

No matter how brilliant and experienced a draftsman may be it is important for him to read through very thoroughly the Interpretation Act each time he is getting ready to draft a legislative proposal or Bill.

CHAPTER FOUR

THE ATTITUDE OF NIGERIAN COURTS TO THE USE OF INTRINSIC AND EXTRINSIC AID IN THE INTERPRETATION OF STATUTE.

4.1 Aids to Interpretation of Statutes

It has already been stated in the previous chapter of this research that the job of interpreting statutes and the law generally is the sole responsibility of the judicial arm of the government. This is quite a cumbersome task considering the technicalities involved in interpreting statutes. Due to implacable limitations and the frailties of humanity it is not in doubt that inaccuracies must abound in drafting a statute. Where this error has been made and such state dies not suit the societal standard of the society in question the burden is then shifted to the interpreters of the law to carefully interpret such statute for the effective administration of Justice. To do this, they need aids to interpretation; these aids are tools with which the courts would judiciously interpret the said statute. In a nutshell, aids to interpretation of statutes are those various rules or methods that guide the courts to judiciously unravel the underlying effect of a statute as well as the purposive intent of the draftsman. These aids are categorized into intrinsic (Internal aids) and extrinsic (external) aids. We shall discuss them subsequently.

4.1.1 Intrinsic

Intrinsic aids are matters within an Act itself which may help make the meaning clearer. The court may consider the long title, the short title and any preamble. Whenever there is a reasonable doubt about the provisions in the statute, it is permissible to refer to the heading of the provision for interpreting the section. Insofar as marginal notes inserted in the legislation itself are concerned,

they are also treated as guidelines for interpreting the statutes. In many statutes, especially, penal statutes, enacted in the olden times, it is the practice of the legislature to give illustrations. The illustrations cannot be used either to cut down or extend the scope of the section.

Long Title: It is now settled that Long Title of an Act is a part of the Act and is admissible as an aid to its construction. The long title which often precedes the preamble must be distinguished with the short title; the former taken along with the preamble or even in its absence is a good guide regarding the object, scope or purpose of the Act, whereas the latter being only an abbreviation for purposes of reference is not a useful aid to construction.[70] While dealing with the Supreme Court Advocates (Practice in High Courts) Act, 1951, which bears a full title thus 'An Act to authorize Advocates of the Supreme Court to practise as of right in any High Court, S. R. DAS, J., observed:

> *"One cannot but be impressed at once with the wording of the full title of the Act. Although there are observations in earlier English cases that the title is not a part of the statute and is, therefore, to be excluded from consideration in construing the statutes, it is now settled law that the title of a statute is an important part of the Act and may be referred to for the purpose of ascertaining its general scope and of throwing light on its construction, although it cannot override the clear meaning of the enactment.*[71]

The title of the Madras General Sales Tax, 1939, was utilized to indicate that the object of the Act is to impose taxes on sales that take place within the province. The title although part of the Act is

[70] Justice G. P. Singh: pp.105, 106
[71] 805 Aswinikumar Ghose v. Arabinda Bose, AIR 1952 SC pp.369, 388

in itself not an enacting provision and though useful in case of ambiguity of the enacting provisions, is ineffective to control their clear meaning.

In the case of *Amarendra Kumar Mohapatra & Ors. v. State of Orissa & Ors,*[72] the Supreme Court has held that:

> "The title of a statute is no doubt an important part of an enactment and can be referred to for determining the general scope of the legislation. But the true nature of any such enactment has always to be determined not on the basis of the given to it but on the basis of its substance."

In *M.P.V. Sundararamier & Co. v. State of A.P*,[73] the Supreme Court was considering whether the impugned enactment was a Validation Act in the true sense. This Court held that although the short title as also the marginal note described the Act to be a Validation Act, the substance of the legislation did not answer that description. The Supreme Court observed:

> ... It is argued that to validate is to confirm or ratify, and that can be only in respect of acts which one could have himself performed, and that if Parliament cannot enact a law relating to sales tax, it cannot validate such a law either, and that such a law is accordingly unauthorized and void.[74]

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[72] 808 (2014) 4 SCC 583
[73] 809 AIR 1958 SC 468
[74] 807 Manoharlal v. State of Punjab, AIR 1961 SC pp.418, 419

They only basis for this contention in the Act is its description in the short title as the ‘Sales Tax Laws Validation Act’ and the marginal note to Section 2, which is similarly worded. But the true nature of a law has to be determined not on the label given to it in the statute but on its substance. Section 2 of the impugned Act which is the only substantive enactment therein makes no mention of any validation. It only provides that no law of a State imposing tax on sales shall be deemed to be invalid merely because such sales are in the course of inter-State trade or commerce. The effect of this provision is merely to liberate the State laws from the fetter placed on then by Article 286(2) and to enable such laws to operate on their own terms.”

Preamble: The preamble of a statute like the long title is a part of the Act and is an admissible aid to construction. Although not an enacting part, the preamble is expected to express the scope, object and purpose of the Act more comprehensively than the long title. It may recite the ground and cause of making the statute, the evils sought to be remedied or the doubts which may be intended to be settled. In the words of Sir John Nicholl : “It is to the preamble more specifically that we are to look for the reason or spirit of every statute, rehearsing this, as it ordinarily does, the evils sought to be remedied, or the doubts purported to be removed by the statute, and so evidencing, in the best and most satisfactory manner, the object or intention of the Legislature in making or passing the statute itself.[75]

The principle has also been enunciated by the Supreme Court, where MUDHOLKAR, J., speaking for the court observed:

[75] 813 Brett v. Brett, (1826) 162 ER 456, pp. 458, 459

> "It is one of the cardinal principles of construction that where the language of an Act is clear, the preamble may be resorted to explain it. Again, where very general language is used in an enactment which, it is clear must be intended to have a limited application, the preamble may be used to indicate to what particular instances, the enactment is intended to apply. We cannot, therefore, start with the preamble for construing the provisions of an Act, though we could be justified in resorting to it, nay, we will be required to do so, if we find that the language used by Parliament is ambiguous or is too general though in point of fact parliament intended that it should have a limited application.[76]

The preamble may, no doubt, be used to solve any ambiguity or to fix the meaning of words which may have more than one meaning, but it can, however, not be used to eliminate as redundant or unintended, the operative provision of a statute. A preamble retrospectively inserted into an earlier Act is not of much assistance for gathering the intention of the original Act. Similarly, it seems the repeal of a preamble simplicita will not affect the construction of the Statute.

Preamble to Constitution: The Preamble of the Constitution like the Preamble of any statute furnishes the key to open the mind of the makers of the Constitution more so because the Constituent Assembly took great pains in formulating it so that it may reflect the essential features and basic objectives of the Constitution. The Preamble is a part of the Constitution.[77] The Preamble embodies the fundamentals underlining the structure of the Constitution. It was adopted by the Constituent Assembly after the entire Constitution has been adopted. The true functions of the

[76] 814 Burakar Coal Co. Ltd. v. Union of India, AIR 1961 SC pp.954, 956, 957;
[77] 817 Justice G.P. Singh: Ibid, p. 114

Preamble is to expound the nature and extend and application of the powers actually confirmed by the Constitution and not substantially to create them. The Constitution, including the Preamble, must be read as a whole and in case of doubt interpreted consistent with its basic structure to promote the great objectives stated in the preamble. But the Preamble can neither be regarded as the source of any substantive power nor as a source of any prohibition or limitation.[78] The Preamble of a Constitution Amendment Act can be used to understand the object of the amendment.

Headings: The view is now settled that the Headings or Titles prefixed to sections or group of sections can be referred to in construing an Act of the Legislature. But conflicting opinions have been expressed on the question as to what weight should be attached to the headings. "A Heading", according to one view, "is to be regarded as giving the key to the interpretation of the clauses ranged under it, unless the wording is inconsistent with such interpretation; and so the headings might be treated "as preambles to the provisions following them. Recently the Supreme Court expressed itself as follows:

> "It is well settled that the headings prefixed to sections or entries (of a Tariff Schedule) cannot control the plain words of the provisions; they cannot also be referred to for the purpose of construing the provision when the words used in the provision are clear and unambiguous; nor can they be used for cutting down the plain meaning of the words in the provision.[79]

[78] 818 Indira Nehru Gandhi (Smt.) v. Raj Narain, AIR 1975 SC 2299; Raghunath Rao

[79] Kesavananda v. State of Kerala, AIR 1973 SC 1461 : (1973) 4 SCC 225

Only in the case of ambiguity or doubt the heading or sub-heading may be referred to as an aid in construing the provision but even in such a case it could not be used for cutting down the wide application of the clear words used in the provision. "The heading prefixed to sections or sets or sections in some modern statutes are regarded as preambles to those sections. They cannot control the plain words of the statute but they may explain ambiguous words.

Marginal Notes: In the older statutes marginal notes were not inserted by the legislature and hence were not part of the statute and could not be referred to for the purpose of construing the statute. If they are also enacted by the legislature they can be referred to for the purpose of interpretation. In the case of the Indian Constitution, the marginal notes have been enacted by the Constituent Assembly and hence they may be referred to for interpreting the Articles of the Constitution. If the words used in the enactment are clear and unambiguous, the marginal note cannot control the meaning, but in case of ambiguity or doubt, the marginal note may be referred to.

In the case of *Thakurain Balraj Kunwar v. Rao Jagpatpal Singh,*[80] it was observed that it is well settled that marginal notes to the sections of an Act of Parliament cannot be referred to for the purpose of construing the Act. The marginal note cannot affect the construction of the language used in the body of the section if it is otherwise clear and ambiguous. The marginal heading cannot control the interpretation of the words of the section particularly when the language of the section is clear and unambiguous. Where the language is clear and can admit of no other meaning, the marginal note cannot be read to control the provisions of the statute.

[80] 826 (1904) ILR 26 All 393 (PC)

Punctuations: 'Punctuation' means to mark with points and to make points with usual stops. It is the art of dividing sentences by point or mark. Is the Court entitled to use punctuation also while interpreting the statutes? Punctuation is considered as a minor element in the construction of statutes. Text book writers comment that English Court pay little or no attention to punctuation while interpreting while interpreting the statutes. The same is not the cases in Indian Courts. If a statute in question is found to be carefully punctuated, punctuation may be resorted for the construction of the statute. B. K. MUKHERJEE, J., *in Aswini Kumar Ghose v. Arabinda Bose,*[81] expressed himself as follows: "Punctuation is after all a minor element in the construction of a statute, and very little attention is paid to it by English Courts-. It seems, however, that in the vellum copies printed since 1850, there are some cases of punctuation, and when they occur they can be looked upon as a sort of contemporancea expositio-. When a statute is carefully punctuated and there is doubt about its meaning, a weight should undoubtedly be given some cases, but it cannot certainly be regarded as a controlling element and cannot be allowed to control the plain meaning of a text."

In *Gopalan's case*[82] KANIA, C.J., in construing Art. 22(7)(a) of the Constitution, referred to the punctuation and derived assistance from it in reaching his conclusion that Parliament was not obliged to prescribe both the circumstances under which, the class or classes of cases, in which a person may be detained for a period longer than three months, without obtaining the opinion of the Advisory Board and that Parliament on a true construction of the clauses could prescribe either or both. It would appear, with respect to modern statutes that if the statute in question is found to

[81] 834 AIR 1952 SC pp.369, 383
[82] 833 AIR 1979 SC 564

be carefully punctuated, punctuation, though a minor element, may be resorted to for purposes of construction.

Illustrations: Illustrations appended to a section from part of the statute and although forming no part of the section, are of relevance and value in the construction of the text of the section and they should not be readily rejected as repugnant to the section. It would be the very last resort of construction to make this assumption. The great usefulness of the Illustrations which have, although not part of the sections, been expressly furnished by the Legislature as helpful in the working and application of the statute, should not be thus impaired.

Definition Section: These do not take away the ordinary and natural meaning of the words, but is used:

(i) to extend the meaning of a word to include or cover something, which would not normally be covered or included; and

(ii) to interpret ambiguous words and words which are not plain or clear.

The definition must ordinarily determine the application of the word or phrase defined; but the definition itself must first be interpreted before it is applied. When the definition of a word gives it an extended meaning, the word is not to be interpreted by its extended meaning every time it is used, for the meaning ultimately depends on the context; and a definition clause does not, ordinarily enlarge the scope of the Act. A court should not lay down a rigid definition and crystallize the law, when the legislature, in its wisdom has not done so. It is ordinarily unsafe to seek the meaning of words used in an Act, in the definition clause of other statutes even when enacted by the same legislature; but where a word or phrase used in an Act, is used in another Act

which is in pari material and the word is not defined in that other Act, then the word may be given the meaning given in the first Act. Definitions in an Act are to be applied only when there is nothing repugnant in the subject or context, and this is so even if such a qualifying provisions is not expressly stated by the legislature. The words 'that is to say' are not words of restriction. They are words of illustration, and the instances that follow operate as a guide for interpretation.

An interpretation clause may be used the very 'includes' or 'means' or 'means and includes', or 'denotes' or 'deemed to be'. The words 'includes' is generally used in the interpretation clause to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used, those words and phrases must be considered as comprehending, not only such things as they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. If the words 'means' or 'means and includes' are used it affords an exhaustive explanation of the meaning which, for the purposes of the Act, must inevitably be attached to those words or expressions. If the word 'denotes' is used it has the same significance as 'includes'. If the word 'deemed to be' is used it creates a fiction and a thing is treated to be that which in fact it is not.

If a special definition of a word or phrase is set out in an Act, the meaning of this word or phrase as given in such definition should normally be adopted in the interpretation of the statute. In the absence of such a definition, the General Clauses Act of the particular legislature which enacted the statute should be referred to. If the word is not defined there also, the rules of interpretation would come into play.

In *Vanguard Fire & General Insurance Co. Ltd. v. Fraser & Ross,*[83] one of the questions that fell for determination before the Supreme Court was whether the definition of the word "insurer"

[83] 848 AIR 1960 SC

included a person intending to carry on a business or a person who has ceased to carry on a business. It was contended that the definition started with the words "insurer means" and, therefore, is exhaustive. The Supreme Court, repelling that contention held, that statutory definitions or abbreviations must be read subject to the qualification variously expressed in the definition clauses which created them and it may be that even where the definition is exhaustive inasmuch as the word defined is said to mean a certain thing, it is possible for the word to have somewhat different meaning in different sections of the Act depending upon the subject or the context. That is why all definitions in statutes generally begin with the qualifying words "unless there is anything repugnant in the subject or context." The expression "include" is used as a word of extension and expansion to the meaning and import of the preceding words or expressions. The following observations of Lord Watson in *Dilworth v. Stamps Commissioners,*[84] in the context of use of "include" as a word of extension has guided this Court in numerous cases: "... But the word 'include' is susceptible of another construction, which may become imperative, if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to 'mean and include', and in that case it may afford an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions."

The meaning of the said expression has been considered by a three Judge Bench of this Court *in South Gujarat Tiles Manufacturers Assn. V. State of Gujarat,*[85] wherein this Court has observed:

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[84] 1899 AC 99 : (1895-99) All ER Rep Ext 1576 (PC)
[85] 850 (1976) 4 SCC 601 : 1977 SCC (L&S) 15

> "Now it is true that 'includes' is generally used as a word of extension, but the meaning of a word or phrase is extended when it is said to include things that would not properly fall within its ordinary connotation."

The word 'include' is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used those words or phrases must be construed as comprehending, not only such things, as they signify according to their natural import, but also those things which the interpretation clause declares that they shall include.[86] It goes without saying that interpretation of a word or expression must depend on the text and the context. The resort to the word 'includes' by the legislature often shows the intention of the legislature that it wanted to give extensive and enlarged meaning to such expression. Sometimes, however, the context may suggest that word 'includes' may have been designed to mean 'means'. The setting, context and object of an enactment may provide sufficient guidance for interpretation of the word 'includes' for the purposes of such enactment.[87] The word "include" is generally used to enlarge the meaning of the words or phrases occurring in the body of the statute; and when it is so used those words or phrases must be construed as comprehending, not only such things, as they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. That is to say that when the word "includes" is used in the definition, the legislature does not intend to restrict the definition: it makes the definition enumerative but not exhaustive. That is to say, the term defined will retain its ordinary meaning but its scope would be extended to bring within it matters, which in its ordinary meaning

[86] Justice G.P. Singh: Ibid, p. 181

[87] Karnataka Power Transmission Corpn. v. Ashok Iron Works (P.) Ltd., (2009) 3

may or may not comprise.[88] In construing a provision of law as to its mandatory nature, the intention of the legislature and the consequences that would flow from the construction thereof one way or the other have to be kept in view. In *Mohan Singh v. International Airport Authority of India,*[89] the Supreme Court was considering the question whether the use of the word 'shall' is not decisive in construing whether a provision is mandatory or directory. It was observed as under:

> "…The word 'shall', though prima facie gives impression of being of mandatory character, it requires to be considered in the light of the intention of the legislature by carefully attending to the scope of the statute, its nature and design and the consequences that would flow from the construction thereof one way or the other. In that behalf, the court is required to keep in view the impact on the profession, necessity of its compliance; whether the statute, if it is avoided, provides for any contingency for non-compliance; if the word 'shall' is construed
> as having mandatory character, the mischief that would ensure by such construction; whether the public convenience would be observed or public inconvenience or the general inconvenience that may ensue if it is held mandatory and all other relevant circumstances are required to be taken into consideration in construing whether the provision would be mandatory or directory. If an object of the enactment is defeated by holding the same directory, it should be construed as mandatory whereas if by holding it mandatory serious general inconvenience will be created to innocent persons of general public without much furthering the object

[88] Commissioner. Of Customs v. Caryaire Equipment India (P) Ltd., (2012) 4 SCC 645;
[89] U.P. Power Corpn. Ltd. v. NTPC Ltd., (2014) 1 SCC 371; Associated Indem

of enactment, the same should be construed as directory but all the same, it would not mean that the language used would be ignored altogether.

Effect must be given to all the provisions harmoniously to suppress public mischief and to promote public justice." In the same decision, it was observed that "Where the language of statute creates a duty, the special remedy is prescribed for non-performance of the duty.

Proviso: The proper function of a proviso is to except and to deal with a case which would otherwise fall within the general language of the main enactment and its effect is confined to that case. It is a qualification of the preceding enactment which is expressed in terms too general to be quite accurate. As a general rule, proviso is added to an enactment to qualify or create an exception to what is in the enactment and ordinarily, a proviso is not interpreted as stating a general rule. Normally, a proviso does not travel beyond the provision to which it is a proviso. It craves out an exception to the main provision to which it has been enacted as a proviso and to no other. When one finds a proviso to a section the natural presumption is that, but for the proviso, the enacting part of the section would have included the subject-matter of the proviso. A proviso must be construed with reference to the preceding parts of the clause to which it is appended.

Where the proviso is directly repugnant to a section, the proviso shall stand and be held a repeal of the section as the proviso speaks the later intention of the makers. When a proviso is repugnant to the enacting part, the proviso will not prevail over the absolute terms of a later Act directed to be read as supplemental to the earlier one. However, where the section is doubtful, a proviso may be used as a guide to its interpretation; but when it is clear, a proviso cannot imply the existence of words of which there is no trace in the section.

The proviso is subordinate to the main section. A proviso does not enlarge an enactment except for compelling reasons. Sometimes an unnecessary proviso is inserted by way of abundant caution.

A proviso may sometimes contain a substantive provision.

A construction placed upon a proviso which brings it into general harmony with the terms of section should prevail. The normal function of a proviso is to except something out of the enactment or to qualify something enacted therein which but for the proviso would be within the purview of the enactment. As was stated in *Mullins v. Treasury of Survey*[90], when one finds a proviso to a section the natural presumption is that, but for the proviso, the enacting part of the section would have included the subject-matter of the proviso. The proper function of a proviso is to except and to deal with a case which would otherwise fall within the general language of the main enactment and its effect is confined to that case. It is a qualification of the preceding enactment which is expressed in terms too general to be quite accurate. As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment and ordinarily, a proviso is not interpreted as stating a general rule. "If the language of the enacting part of the statute does not contain the provisions which are said to occur in it you cannot derive these provisions by implication from a proviso.[91]

Coming to the interpretation of proviso and explanation, we may refer to a well-known judgment of the Supreme Court *in Sundaram Pillai v. V.R. Pattabiraman.*[92] After exhaustively referring to the earlier case law on scope and interpretation of a proviso as well as explanation to a section, the Supreme Court laid down as under: “A proviso may serve four different purposes:

- qualifying or excepting certain provisions from the main enactment;

[90] 1885 (5) QBD 170 : AIR 1961 SC 1596 : AIR 1965 SC 1728
[91] State of Punjab & Anr. v. Ashwani Kumar & Ors, AIR 2009 SC 186
[92] State of Punjab & Anr. v. Ashwani Kumar & Ors, AIR 2009 SC 186

- it may entirely change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable;
- it may be so embedded in the Act itself as to become an integral part of the enactment and thus acquire the tenor and colour of the substantive enactment itself; and
- it may be used merely to act as an options addenda to the enactment with the sole object of explaining the real intendment of the statutory provision.

Explanation: The object of an Explanation is to understand the Act in the light of the Explanation. The object of an Explanation to a statutory provision is-

(a) To explanation the meaning and intendment of the Act itself,

(b) Where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to sub serve,

(c) To provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful,

(d) An explanation cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanation, in order to suppress the mischief and advance the object of the Act it can help or assist the court in interpreting the true purport and intendment of the enactment, and;

(e) It cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming a hindrance in the interpretation of the same. It does not ordinarily enlarge the scope of the original section which it explains, but only makes the meaning clear beyond dispute.

Non Obstante Clause:

A section sometimes begins with the phrase 'notwithstanding anything contained etc. Such a clause is called a non obstante clause and its general purpose is to give the provision contained in the non obstante clause an overriding effect in the event of a conflict between it and the rest of the section. Thus, there is generally a close relation between the non obstante clause and the main section and in case of ambiguity the non obstante clause may throw light on the scope and ambit of the rest of the section. If, however, the enacting part is clear and unambiguous, its scope cannot be whittled down by the use of the non obstante clause.

This phrase i.e. 'notwithstanding anything in' is in contradiction to the phrase 'subject to'. In *Aswini Kumar v. Arabinda Bose*,[93] the petitioner was an Advocate of the Calcutta High Court and also of the Supreme Court of India. The Supreme Court Advocates (Practice in High Courts) Act, 1951 is an Act to authorize Advocates of Supreme Court to practice as of right in any High Court. When he filed in the Registry on the original side of the Calcutta High Court a warrant of authority executed in his favour to appear for a client, it was returned, because under the High Court Rules and Orders, Original side, an Advocate could only plead and not act. The Advocate contended that as an Advocate of the Supreme Court he had a right to practice which right included the right to act as well as to appear and plead without being instructed by an attorney. The contention was accepted by the majority. The Supreme Court observed that: "the non obstante clause can reasonably be read as overriding 'anything contained' in any relevant existing law which is inconsistent with the new enactment, although the draftsman

had primarily in his mind a particular type of law as conflicting with the new Act. The enacting part of a statue must, where it is clear, be taken to control the non obstante clause where both

[93] 1953 SCR 1 : AIR 1952 SC 369 : 1952 SCJ 568

cannot be read harmoniously; for, even apart from such a clause, a later law abrogates earlier laws clearly inconsistent with it. While it may be true that the non obstante clause need not necessarily be co-extensive with the operative part, there can be no doubt that ordinarily there should be a close approximation between the two." It was further observed that: "It should first be ascertained what the enacting part of the section provides on a fair construction of the words used according to their natural and ordinary meaning, and the non-obstante clause is to be understood as operating to set aside as no longer valid anything contained in relevant existing laws which is inconsistent with the new enactment."

4.1.2 Extrinsic

Extrinsic aids are matters which may help put an Act into context. Sources include previous Acts of Parliament on the same topic, earlier case law, dictionaries of the time, and the historical setting. It is thought that English law should be interpreted in such a way as to be consistent with international law. Section 3 of the Human Rights Act 1998 expressly states that as far as it is possible to do so, an Act must be read and given effect in a way which is compatible with the rights in the European Convention on Human Rights. This only applies to any case where there is an issue of human rights. They are the Statement of Objects and Reasons when the Bill was presented to Parliament, the reports of the Committee, if any, preceded the Bill, legislative history, other statutes in pari-material and legislation in other States which pertain to the same subject matter, persons, things or relations.

The history of legislation, the enactments which are repealed, the parliamentary debates, dictionary commentaries etc. are external aids to construction. It is important to point out here that the

legislature adopts the device of making a statute by “reference” and by “incorporation”. When the statute is incorporated in another statue by the legislature, the incorporated statute or statute referred to therein is external aid for interpreting the statute in question. There has been a controversy in India regarding the use of parliamentary debates for interpreting the Constitution. It is now settled that the court can always refer to the debates in the legislature while interpreting the statute to know the intention if there is a doubt about the provision. More often than not, a provision is introduced in the Bill and after some debate either it is altered or modified or amended before finally it receives the assent of the President. Such external aids are helpful in interpreting the law.

Where the Legislature has not chosen to define the expression the

court of law have, therefore, to fall back upon other aids for finding the intention of the Legislature; for example by reference to the context and object and purpose of the legislative measure in question. The court may further have resort to dictionaries and judicial interpretation of this award as used in other statutes; but it cannot be denied that these methods are not as satisfactory as a precise and clear legislative definition in the statute itself.

In *B. Prabhakar Rao v. State of Andhra Pradesh*[94], the observations quoted below, are illuminating:

> "Where internal aids are not forthcoming, we can always have recourse to external aids to discover the object of the legislation. External aids are not ruled out. This is now a well settled principle of modern statutory construction.

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[94] 863 1985 S (2) SCR 573

The enacting history of an Act is the surrounding corpus of public knowledge relative to its introduction into Parliament as a Bill, and subsequent progress through, and ultimate passing by, Parliament. In particular it is the extrinsic material assumed to be within the contemplation of Parliament when it passed the Act." Again "In the period immediately following its enactment, the history of how enactment is regarded in the light of development from time to time." "Official statements by the government department administering an Act, or by any other authority concerned with the Act, may be taken into account as persuasive authority on the meaning of its provisions." Justice may be blind but it is not to be deaf. Judges are not to sit in sound proof Committee reports, Parliamentary debates, Policy statements and public utterances of official spokesmen are of relevance in statutory interpretation. But 'the comity, the courtesy and respect that ought to prevail between the two prime organs of the State, the legislature and the judiciary', require the courts to make skilled evaluation of the extra textual material placed before it and exclude the essentially unreliable. "Nevertheless the court, as master of its own procedure, retains a residuary right to admit them where, in rare cases, the need to carry out the legislature's intention appears to the court so to require."

History – Facts and Circumstances: In order to arrive at the intention of the legislature, the state of law and judicial decisions antecedent to and at the time the statute was passed are material matters to be considered. Evidence of matters relating to such surrounding circumstances and historical investigation of which judicial note can be taken by court, including reports of select committees and statements of objects and reasons, can be resorted to for ascertaining such antecedent law and for determining the intention of the legislature. But the bill and reports of select committee are not legitimate material for arriving at the construction of a statute, that is, for finding the meaning of words. Parliamentary debates on the floor legislature are also inadmissible,

because, the court is concerned only with what the legislature actually said in the statute. Moreover, plain words in the statute cannot be limited by any considerations of policy.

An erroneous assumption by the legislature as to the state of the law has no effect and would not become a substantive enactment. In the construction of a statute the worst person to construe it is the person who is responsible for its drafting. Courts sometimes make a distinction between legislative debates and reports of committees and treat the latter as a more reliable or satisfactory source of assistance. The speeches made by the members of the House in the course of the debate are not admissible as extrinsic aids to the interpretation of statutory provisions. It cannot be said that the acceptance or rejection of amendments to a Bill in the course of Parliamentary proceedings forms part of the pre-enactment history of a statute and as such might throw valuable light on the intention of the Legislature when the language used in the statute admitted of more than one interpretation. The reason why a particular amendment was proposed or accepted or rejected is often a matter of controversy and without the speeches bearing upon the motion, it cannot be ascertained with any reasonable degree of certainty. And where the Legislature happens to be bicameral, the second Chamber may or may not have known of such reason when it dealt with the measure.

Statement of Objects and Reasons: The Statement of Objects and Reasons, seeks only to explain what reasons induced the mover to introduce the bill in the House and what objects he sought to achieve. But those objects and reasons may or may not correspond to the objective which the majority of members had in view when they passed it into law. The Bill may have undergone radical changes during its passage through the House or Houses, and there is no guarantee that the reasons which led to its introduction and the objects thereby sought to be achieved have remained the same throughout till the Bill emerges from the House as an Act of the Legislature, for they do

not form part of the Bill and are not voted upon by the members. The Statements of Objects and Reasons appended to the Bill should be ruled out as an aid to the construction of a statute.

Dictionary: The meaning of particular words in an Indian statute is to be found not so much in a strict etymological propriety of language nor even in popular sense, as in the subject or occasion on which they used. But it is well known that words are generally used in their ordinary sense and therefore, though dictionaries are not to be taken as authoritative in regard to the meanings of the words used in statutes, they may be consulted.

In *Voltas Ltd. v. Rolta India Ltd.*[95],864 the Supreme Court has held that Dictionaries can hardly be taken as authoritative exponents of the meanings of the words used in legislative enactments for the plainest words may be controlled by a reference to the context.

Use of Foreign Decisions: Reference to English and American decisions may be made, because they have the same system of jurisprudence as ours, but do not prevail when the language of the Indian statute or enactment is clear. They are of assistance in elucidating general principles and construing Acts in pari material.

4.2 Various forms of Interpretation of Statutes

1. Literal rule of interpretation: The literal rule of interpretation is one of the foremost methods of judicial interpretation. Nnamani JSC in the case of *Bronik Motors ltd v Wema Bank* held that "It is indeed one of the first rules of interpretation of statutes that words must be given their ordinary, plain, and natural meaning."

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[95] 864 (2014) 4 SCC 516

This Literal rule is the ordinary, natural, and plain meaning of the words of a statute rule of interpretation. For example, in the case of *R V Bangaza,* Section 319(2) of the Criminal Code fell before the court for interpretation. That section provides that "Where an offender who in the opinion of the courts has not attained the age of 17 years has been found guilty of murder, such offender shall not be sentenced to death, but shall be ordered to be detained." The Court in applying the literal rule of interpretation held that the relevant age was the age at the time of conviction, not the time of commission of the offence.

Furthermore, in the case of *Nkwocha v Governor of Anambra* state, the issue for determination was whether the Governor of Anambra state was the proper authority to exercise the powers or functions vested in the military governor under the provisions of the Land use act of 1978. The court per Kayode Eso JSC, held that the ordinary meaning of the word 'vested in' would clearly suggest that the land which was vested by Section 1 of the Land use Act 1978 on the military Governor of a state has now become vested on the civilian Governor of the state.

The rationale for this literal rule of statutory interpretation was expounded by Tindal C.J in the Sussex peerage case, where he said that "The only rule for the construction of acts of parliament is that they should be construed according to the intent of the parliaments which passed the act. If the words of the statute are in themselves precise and unambiguous then no more can be necessary than to expound those words in their natural and ordinary sense, the words themselves alone do as such a case best declare the true intention of the Lawmakers.

2. Golden Rule of Interpretation: Golden rule of interpretation is a rule of construction that where the plain or ordinary meaning of the provision of a statute will result in absurdity, the court should give an implied meaning, as well as interpret such statute slightly different from its plain provision.

The Golden rule of interpretation was formulated by Parke B in the case of *Becke v Smith* where he said "It is a very useful rule on the construction of a statute to adhere to the ordinary meaning of the words used, and to the grammatical construction unless that is at variance with the intention of the legislature to be collected from the statute itself or leads to any manifest absurdity or repugnancy, in which case the language may be varied or modified so as to avoid such inconvenience, but no further."

This implies that the Golden rule of interpretation allows for departure from the literal rule when the application of the statutory words in its ordinary state would be repugnant to or inconsistent with some other provisions in the statute or could lead to absurdity. For example, in the case of *Council of the university of Ibadan v Adamolekun,* the Supreme Court was faced with a jurisdictional issue as to whether it has the power to declare an edict of the Western Nigeria Military Governor void for its inconsistency with a Federal Military Governor's decree.

Section 6 of the constitution (suspension and modification) decree no 1, 1966 ousted the jurisdiction of the court to entertain any matter as to the validity or otherwise of edicts and decrees in Nigeria. Counsel contended that by the literal rule of interpretation of this section, the Supreme court cannot declare the edict void, but the court held that it could not have been intended by the legislature that an inconsistent and therefore void law will be permitted to co-exist with the superior laws, as this will not only be absurd, but be legally anomalous as well. Thus, the Supreme Court in applying the golden rule of interpretation declared the edict void.

Also, in the case of *R v Princewill*, the court held that the word 'marries' in Section 370 of the Criminal Code was not to be construed as contracting a valid marriage, but as going through a

form of marriage known to or recognized by law. To hold otherwise would have negated the intention of the legislature.

3. Mischief Rule of Interpretation: Mischief rule, also referred to as interpretation by reference to the statutory purpose was formulated by judges in *Heydon's case.* Mischief rule is a rule of interpretation which requires the judge to consider some historical facts and background information pertaining to the making of a statute in order to discover the intention of the legislature in making that statute.

In order words, the history of the legislation and the mischief it was designed to prevent must be considered since the purpose of every interpretation is to discover the intention of the legislature from the words used.

The Mischief rule was properly laid in the case of *Balogun v Salami*, where the court in considering the history of the Registration of Titles Act, said that the ban attending dealings in family land was sale of such land by some members of the family followed by repudiation of the transaction by other members of the family on grounds of absence of the family's consent. The court held that the purpose of the act was to remove the ban. Thus, it then interpreted the provision in the light of this history. The court further held that for the sure and true interpretation of all statutes in general, the following four things are to be considered:

i. What was the common law before the making of the act;
ii. What was the mischief and defect for which the common law did not provide;
iii. What remedy hath the parliament resolved and appointed to cure the decease of the common law;
iv. The true reason of the remedy.

This therefore implies that the mischief rule requires a consideration of the state of the law prior to the enactment of the statute sought to be interpreted, the mischief or defect which the old law did not provide for, which made it necessary to enact the statute sought to be interpreted, and the remedy provided by the parliament in the current law to cure the defect or mischief in the previous law.

4. Ejusdem Generis rule: The Ejusdem generis rule of interpretation postulates that where particular words of the same class are followed by a general word, the meaning of the general word will be limited to things similar to the class of things earlier enumerated. This implies that where particular words which refer to members of a class or things of the same class is followed by general words, the meaning of the general words are limited to the members or things of that class specified by the particular words. For example, in the case of *Nasr v Bouari,* the Supreme Court had to determine whether premises used partly as a living accommodation and partly as a night club were premises within the meaning of Section 1 of the rent control (Lagos) Amendment Act 1965. The act defined premises as a building of any description occupied or used by persons for living or sleeping or other lawful purpose, as the case may be, whether or not any time it is also occupied or used under any tenancy or as a shop or store.

The issue for determination in this case was whether other lawful purposes meant any lawful purposes other than premises for living or sleeping. The court in applying this Ejusdem Generis rule of interpretation held that ‘other lawful purposes’ must be confined in meaning to purposes similar to living or sleeping. Thus, it held that the premises used partly as a nightclub were not premises within the meaning of the provision notwithstanding the fact that they were also partly used for living.

5. Expressio unis est exclusion alterius: This means that the express mention of one thing means the exclusion of another. The Expressio unis est exclusion alterius rule of statutory interpretation is to the effect that the deliberate inclusion of one or more members of a class means the deliberate exclusion of those not mentioned. For example, in the case of *Udoh v Orthopedic Hospital Management board,* Section 1(a) of the trade disputes amendment decree 47 of 1992 provided for the abatement of pending orders, interim, or interlocutory orders, judgment or a decision of any court other than the National Industrial Court. It was held by the court that this provision did not affect final judgments and
6. Noscitur A Sociis: Sometimes few words or phrases may have two or more meanings. Choosing of correct meaning is important for proper implementation. When such kinds of difficulties arise, the words or the phrase's meaning is determined by its surrounding words or accompanying words. Maxwell while using this maxim in his,'The Interpretation of Statutes', he described it in the following words **"*When two or more words susceptible of analogous meaning are coupled together, they are understood to be used in their cognate sense taking colors from each other*."[96]** This rule is more colloquially known as "birds of a feather flock together.
7. Reddendo Singula Singulis**:**"Reddendo Singula Singulis" is a legal maxim and a Latin phrase which literally means, "referring each to each". It is often said the maxim is a grammar-based construction used in earlier legislation and is still in practice as many of the current legislative laws of India are as old as the law was first introduced to the

[96]Maxwell: *Interpretation of Statutes*, (11th edn,) 321

country. The principle of the maxim refers and deals with the use of a word in the provision distributive with each other word. For instance, when there is a composite line of provision which has more than one subject and object, then it shall be the right construction to provide each to each, by reading the provision distributive and reading along each object to its appropriate subject. A parallel rule of constructive reading shall be made to verbs and the respective subjects, and to any other parts of speech.[97]

8. Ut Res Magis Valeat Quam Pereat: As seen before in the maxim of ejusdem generis, sometimes the provisions in the statute may give two different complete construction meanings. In these cases, the meaning which fails the intent of the statute or contradicts other provisions of the legislature should be avoided and the meaning which coincides with other provisions of the statute should be taken into consideration.[98] The literal meaning of the maxim means, "it is better for a thing to have an effect than to be made void, i.e., it is better to validate a thing than to invalidate it."

9. Contemporanea Exposito Est Fortissima In Lege:In the legal framework, the maxim "Contemporanea Expositio Est Fortissima in Lege" means that the finest way to interpret a text is to read it as it would have read when it was construed. It is often mentioned that the best description of a legislature or any verbal construction is that from the current authority description. Lord Coke laid down the maxim and was used while interpreting earlier legislations, but typically the maxim was not used to construe

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97 **B.A.Pratheshta, '**Maxims in Interpretation of Statutes' (2021) <MAXIMS IN INTERPRETATION OF STATUTES (lawgicstratum.com)> accessed 1June 2021

98**Supra**

contemporary legislations as comparatively. It is apparent that the language of legislation should be taken in the manner in which it was meant when it was drafted. The meaning which the legislators meant and those who subsisted at the time when the Act was enacted may judiciously be made-up to be well aware than the later generations.

4.2.1 Judicial Precedent

Under this rule, a principle of law which has become settled by a series of decisions is generally binding on the courts and should be followed in similar cases. The rule is based on expediency and public policy. It is however not universally applicable. For example, if grievous wrong may result, a court will not follow the previous decisions which, they are convinced, are erroneous. While dealing with the provision of Sec. 207 of the Motor Vehicle Act, 1988, Hon'ble Mr. Justice C.K. Thakkar in the case of *Ramkrishna Bus Transport and Ors v. State of Gujarat and Ors*,[99] held that, whether a particular provision is mandatory or directory depends upon intention of the Legislature and not only upon the language in which it is used. The meaning and intention of the Legislature must be treated as decisive and they are to be ascertained not only form the phraseology used but also by considering the nature, design and consequences which would flow from construing it one way or the other. It is also true that in certain circumstances, the expression 'may' can be construed as 'shall' or vice versa. At the same time, however, it cannot be ignored that ordinarily 'may' should read as 'May' which is permissive and not obligatory. For the purpose of giving effect to the clear intention of the legislature, 'may' can be read as 'shall' or 'must'. In *Mahadeolal Kanodia*

[99] 1995 (1) G.L.H 520

v. Administrator General of W.B.[100] Supreme Court was concerned with the retrospectivity of law passed by the West Bengal Legislature concerning the rights of tenants and in para 8 of the judgment the Supreme Court held that the principles that have to be applied for interpretation of statutory provisions of this nature are well established. The first of these is that statutory provisions creating substantive rights or taking away substantive rights are ordinarily prospective; they are retrospective only if by express words or by necessary implication..."

In *Amireddi Raja Gopala Rao v. Amireddi Sitharamamma*,[101] a Constitution bench was concerned with the issue as to whether the rights of maintenance of illegitimate sons of a Sudra as available under the Mitakshara School of Hindu law were affected by introduction of Sections 4, 21 and 22 of the Hindu Adoptions and Maintenance Act, 1956. The Court held that they were not, and observed that... a statute should be interpreted, if possible, so as to respect vested rights, and if the words are open to another construction, such a construction should never be adopted."

4.3 Other Aids to Interpretation of Statutes

Bills

This contains the stage of debate before passing of the act by the minister. However this is not considered as reliable form of interpretation because the bill goes through a lot of amendments once it goes through both the houses in parliament and neither does it show the will of majority. So only some help can be taken from it.

[100] AIR 1960 SC 936
[101] AIR 1965 SC 1970 : (1965) 3 SCR 122

Textbooks

Sometimes courts while determining a law takes help from the textbooks. But this view has been criticized because textbook contains the personal views of the author and different textbooks have different opinions. Personal views of the author cannot tell us about the intention of the legislature. Thus is not a reliable source of interpretation.

State of Things at the Time of the Passing of the Bill, History of Legislation, Extemporaneous Exposition and Judicial Interpretation of Words also constitute aids to interpretation of statutes.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

In this study, it has been discovered that there exists a plethora of aids to interpretation of statutes below are findings made during the course of this research.

5.1.1 **Summary of Findings**

Intrinsic aids of interpretation are matters within an Act itself which may help make the meaning clearer. The court may consider the long title, the short title and any preamble. Other useful internal aids may include headings before a group of sections and any schedules attached to the Act. WHILE Extrinsic aids of interpretation are matters which may help put an Act into context. Sources include previous Acts of Parliament on the same topic, earlier case law, dictionaries of the time, and the historical setting. Extrinsic aids also include international conventions, regulations or directives which have been implemented by English legislation.

For the purpose of construction or interpretation, the court has to take recourse to various internal and external aids. As the Supreme Court has confirmed, interpretation of statute being an exercise in the ascertainment of meaning, everything which is logically relevant should be admissible.

The continued classification of the various rules of interpretation as distinct/separate rules of interpretation makes this field of study unintelligible and difficult to comprehend because of the complexity of words.

Each of the principal rules of statutory interpretation has inherent shortcomings, which has led to delay in judicial administration and caused injustice. The legal jurisprudence change as culture

and social values changes, thus, there is no need to base judgment on stereotypes based on strict common law principles of precedent currently used in Nigeria.

There is need to lay emphasis on this area of study in law curriculum, ex-ray the current rules of statutory interpretation as applicable in Nigeria, and draw inspiration from the practice in English and Indian jurisdictions. The Purposive approach, a revamped / harmonized version of the principal rules of statutory interpretation, should be the sole rule of statutory interpretation in Nigeria subject to human exigencies and interest of justice. Reason being that one of the attributes of an egalitarian society is its dynamism, that is, the ability to change over time. Thus, law should not be static. It must change as human nature changes from time to time.

Judges ought to interpret statutes and apply judicial discretion within important social contexts that are considerate of relevant social views, values and interests (thus interweaving law and society).

Although external aids are useful tools for the interpretation or construction of statutory provisions, courts should take recourse to external aids only when internal aids are either not forthcoming or non-existent.

5.1.2 **Recommendations**

The judiciary should be given the free hand and responsibility to use all tools available to it to interpret and make meaning to the law. Too much restriction may not be good for a dynamic and organic interpretation law and adjudication.

The statute or constitution must be read as a whole in order to determine the intendment of the makers of the statute or constitution.

Legal drafters should ensure that Internal and external aids included in legislative drafts are focused towards ascertaining the meaning to be given or associated with a word or section of a statute; and should be an exercise aimed at ensuring that the end of justice is served.

The Legislature and legislative drafters should explore the use of purpose clauses in Bills. The purposive approach as a revamped version of the other principal rules of interpretation entails the inherent attributes of the literal, golden, mischief and liberal rules of interpretation.

The legislature should ensure that records of the legislative process are kept and made assessable to the public for purposes of future reference. Legislative drafters may wish to make reference to this documents while drafting amendment Bills or drawing up harmonized Bills from the two chambers for presidential assent. This is because the most fair and rational method for interpreting a statute is by exploring the intention of the legislature through texts, the subject matter, the effect and consequences or the spirit and reason of law.

Legislative draftsman must be in a position to know exactly when the provisions of the Act will or might apply; he must take relevant provisions of the Act fully into account and ensure that its' requirement is precisely followed.

5.1.3 **Contribution to Knowledge**

In line with my findings, this research has contributed in various ways.

First is that this dissertation is a confirmation of the effectiveness of the principles of separation of powers as enshrined in the Constitution of the Federal Republic of Nigeria 1999. Each Arm of government should be given maximum support and room to complete its functions within the limits of constitution. Introducing rules to restrict it is not helpful. With particular reference to the

judiciary, legislative drafts should be drafted in such a way that interpretation is aided and not made more difficult.

Secondly, sometimes the words of a statute have a plain and a straightforward meaning. But in many cases, there is some ambiguity in the words of the statute that must be resolved by the judge. And it is by the reason above, in other to find the meanings of statutes, judges use various tools and methods of statutory interpretation, tradition canons of statutory interpretation, legislative history, and purpose. In common law jurisdictions, the judiciary may apply rules of statutory interpretation both to legislation enacted by the legislature and to delegated legislation such as administrative agency regulations. Thus, the different rules of interpretation are to be strictly followed by the courts in various cases.

Thirdly, in terms of practice, the dissertation has justified and revived the need for keeping of appropriate records of the legislative process and making such records available to the public and most importantly, in the context of this dissertation, to the judiciary and legislative drafters. Both can make reference to it for interpretation and drafting of Bills respectively.

Finally. This dissertation has added greatly to the literature on legislative drafting, specifically on the rationale and method of application of internal and external aid in legislative drafting in Nigeria.

5.1.4 **Conclusion**

The above discourse is an examination of the principal rules of statutory interpretation in Nigeria, along with internal and external aids put in place to resolve interpretational difficulties. It also reiterate the importance of words to lawyers and the need to update law curriculum in this regard. The paper concludes that the continued classification of the various rules as separate and distinct

rules is no longer tenable. The Purposive approach, a revamped / harmonized version of the principal rules of statutory interpretation, should be the key rule of statutory interpretation in Nigeria subject to human exigencies and interest of justice. Reason being that one of the attributes of an egalitarian society is its dynamism, that is, the ability to change over time. Thus, law should not be static. It must change as human nature changes from time to time. To ensure ease of adaptation, legislative drafts should have in them internal aides that will assist the judiciary in interpretation. Similarly, external aides, like records of legislative proceedings should be made more accessible.

5.1.5 **Suggestions for Further Studies**

The fact that our society is dynamic in nature and evolution is inevitable raises the need for further studies; consequently, the following areas may be explored to further understand the practicality of the findings from this dissertation. First, it may be necessary to undertake a non-doctrinal study of the challenges of developing an institutional framework for establishing internal and external aides to statutory interpretation. Secondly, it may be necessary in the near future to undertake a doctrinal study of the effectiveness of internal aides like purpose clauses in Nigeria statutes that have applied. These are interesting studies which this dissertation could not explore but may be worthy of future research.

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