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Statutory Interpretation: Whither Nigerian Jurisprudence?

Abstract: 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 deserved in their respective law curriculla. 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. Consequently, this paper reiterates the need to play 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. It 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 are appropriately served.

Keywords: Statutory Interpretation, Jurisprudence, Curriculum, Justice. Development

Introduction

It is a truism that every lawyer, either in the practice of law or in the academia, in the course of their dutiesare confronted on a daily basis with issues involving interpretational difficulties. However, the legal curriculum for the training of lawyers in Nigeria and in most commonwealth countries at both the undergraduate and postgraduate levels of studies has failed to give this area of law the prominence it deserves in their respective curriculum. Aside from this, the continued classification of the rules of statutory interpretation as separate / distinct rules makes this area of study difficult to comprehend. The reason for this proposition is that there is in existence the purposive approach. This is a harmonization of the various rules of statutory interpretation. The need for a lawyer to have a full grasp of the understanding of the principles of statutory interpretation is an arsenal for a successful legal practice. It is helpful because courts and practitioners are confronted with issues dealing with the construction of documents and statutory interpretations. It is in the light of the above that this work ex-rays in the main the principles of statutory interpretation in Nigeria; and draws inspiration from English and Indian jurisdictions. The choice of these jurisdictions are premised on the fact that English law is one of the sources of both Nigerian and Indian laws, while courts from both jurisdictions rely on English judicial decisions as persuasive authorities. It argues that the continued classification of the rules of statutory interpretation as distinct rules of interpretation is no longer tenable. This paper advocates that the purposive approach to statutory interpretation should be the sole canon of statutory interpretation in Nigeria. The purposive approach is the convergence of the various existing rules of statutory interpretations. Considering that law is dynamic, the purposive approach as advocated here will be subject to future emerging realities and developments. This paper id divided into 5-five

segments, comprising of the following:

(a) Nature of words and role of judges.
(b) Principles of statutoryinterpretation and aids to interpretation.
(c) Law curriculum and statutory interpretation.
(d) Parallel existence or harmonization of existing rules: Whither Nigerian jurisprudence.
(e) Observations and conclusion.

1.0 Nature of Words and Role of Judges in Statutory Interpretation

1.1 Nature of Words

Every practitioner of law is daily confronted with the interpretation of words used in a statute or document. Words by nature are ambiguous, elusive, and evasive; they are not instruments of mathematical precision. A typical word customarily is capable of at least three meanings (a) usual meaning, (b) intended meaning (c) and comprehended meaning.

Ascertaining the very meaning of words depends on the context it is used. The meaning of a word may even change over time. For instance the word "Christian was first used derogatively at Antioch. Describing the importance of words to lawyers, Chafee posits thus: "Words are the principal tools of lawyers and judges, whether we like it or not. They are to us what scalpel and insulin are to doctors". The difficulty associated with ascertaining the actual meaning of a word becomes more complicated when words appear in a statute written in general terms.

The complication associated with the meaning of a word becomes pronounced when statutes written in general terms, are to be applied to specific provisions. Lord Denning aptly captured the problem associated with words in the case of *Seaford Court Estate v Asher*.

The need for statutory interpretation becomes more compelling because anticipation of future events presently not contemplated leads to the use of indefinite terms in statutes. A fact aptly observed by Denning L.J in the case of *Seaford Estates v. Asher*.

1.2 Role of Judges in Statutory Interpretation

Keeton while acknowledging the fact that interpretation of statute is a science by itself, he went further to described the role of a judge while interpreting a statute. He stated as follows:

> …The function of the judges in interpreting statutes is two-fold. In the first place they must decide upon the exact meaning of what the legislature has actually said, and in the second place they must consider what the legislature intended to have said or ought to have said, but did not, either because he never visualized such a set of circumstances arising as that before the court or because of some other reason.

From the above, the inference can be drawn that the role of the court, when confronted with interpretation of a statutory provision, is "one of legislative supremacy". This theory posit that courts must give effect to the intent of the legislature; they are not entitled or authorized to substitute their policy views for those of the legislature who enacted the statute.

According to Henry Campbell Black, "Interpretation, as applied to written law, is the art or process of discovering and expounding the intended signification of the language used, that is, the meaning which the authors of the law designed it to convey to others."

To Aharon Barak, "legal interpretation is a rational activity that gives meaning to a legal text" From the above, it can be safely inferred that statutory interpretation is the process employed to ascertain the meaning ascribed to a particular provision or word used in a statute.

By virtue of the provisions of S. 6(6) of the Constitution of the Federal Republic of Nigeria, 1999, as amended, the courts are vested with judicial powers. The position is the same in virtually all commonwealth countries.

There are currently two views on the role expected of judges when it comes to statutory interpretation. On the one side of the divide are those who support the Declaratory theory of the role of judges, while

on the other side are those who hold the view that judges do make laws.

To those who believed in the declaratory theory, judges declares the existing law only, they are not mandated to enact the law by so doing through their interpretation, they give a new shape to the existing law. On the other hand, those who believe in the original law making theory hold the view that judges make law in the same way in which the legislator makes it.

Justice Matthew summed up the role of judges in statutory interpretation in the Indian case of *Kesavan and v. State of Kerala.* He stated as follows:

> the law creating function of the court is specially manifest when the judicial decisions creates a general norm where the courts are entitled not only to apply pre-existing substantive law in their decisions, but also to create new law for concrete cases, there is a comprehensible inclination to give these judicial decisions a character of precedence.

Sequel the point earlier discussed in this paper, almost every word in a statute is capable of creating a problem when it comes to interpreting a statute. When such problem arises, the input of judges would be required in order to ascertain the true meaning of such word. The hypothetical law that "No Vehicles in Park" underscores this point.

A cursory examination of the hypothetical law looks very simple, intelligible and comprehensible. However, an attempt to apply its provision brings to fore how incomprehensible this hypothetical law is. In interpreting the hypothetical law, some questions comes to mind. Questions such as whether or not the hypothetical law forbid bicycles? Baby Strollers? Golf Carts, and so on.

2.0 Principles of Statutory Interpretation and interpretation aids in Nigeria

The principal rules of statutory interpretation recognized under the Nigerian jurisprudence are the Literal, the Golden, the Mischief, theLiberal, and the Purposive rules of interpretation.

In addition to the above-mentioned rules, the courts sometimes have recourse to internal and external aids relevant to statutory interpretation. The Indian law also recognized these rules of statutory of statutory interpretation along with its internal and external aids. These rules are by product of English common law.

A discussion of these rules shall be the focus of the next segment of this work.

2.1 The Literal Rule

This rule is to the effect that when interpreting a statute, the duty of the court is to give the words used therein their ordinary literary meaning. In the English case of *Barll v Fordee*, Lord Warrington commenting on the literal rule stated as follows:

> …where the language is plain and admits but one meaning, the task of interpretation can hardly be said to arise. Where, therefore, by the use of clear and unequivocal language capable of only one meaning, anything is enacted by the legislature, it must be enforced however harsh or absurd or contrary to common sense the result may be.

This paper has objection and reservations to the underlined portion of Lord Warrington's dictum quoted above. The basis for the objection and reservation is that as a fundamental rule of construction where the literal rule will provide an absurd result or lead to ambiguity, the court should adopt the golden rule. Words are not meant to be interpreted in such a way that absurdities will result.

The literal rule of statutory interpretation have been adopted in a plethora of cases in Nigeria. In the Nigerian case of*Nnonye v Anyichie & Ors*the court observed as follows:

> It is settled law that it is both elementary and also fundamental principle of interpretation of statutes that where the words of a statute are plain, clear and unambiguous, effect should be given to them, in their ordinary and natural meaning except where to do so will result in absurdity: see Shell Petroleum Dev. Co. (Nig.) Ltd. v. F.B.I.R (1996) 8 NWLR (Pt. 466) 256; Lawal v. G.B. Olivant (1972) 3 SC 124 at 137; Toriola v. Williams (1982) 7 SC 27 at 46; and Oladokun v. Military Gov. of Oyo State (1996) 8 NWLR (Pt. 467) 387 at 419 and 422. Per AKINTAN ,J.S.C (P. 15,

paras. B-D)

In addition, the application of the literal rule was acknowledged in the Indian case of *Manmohan v. Bishun Das,* where the Supreme court held as follows:

> …the ordinary rule of construction is that a provision of a statute must be construed in accordance with the language used therein unless there are compelling reasons. Such as, where a literal construction will reduce the provision to absurdity or prevent manifest intention of the legislature from being carried out. There is no reason why the word 'or' should be construed otherwise than in its ordinary meaning if the construction suggested by Mr Desal were to be accepted and the word 'or' were to be construed as meaning 'and' it would mean that the construction should not only be such as materially alters the accommodation but also such that it will substantially diminish it's value…

It must however be noted that there are instances when the literal rule of construction may lead to absurdity, ambiguity and injustice to the litigants. This was what happened in the Nigerian case of *Adegbenro v Akintola*. In this case, the Judicial Committee of the Privy Council was called upon to interpret Section 33(10) of the Constitution of Western Nigeria under which the Governor removed the plaintiff. This section 33(10) empowered the Governor to remove the Premier if "it appears to him that the Premier no longer commands the support of a majority of the House of Assembly".

The court interpreted the word "if it appears to him" to indicate that the legislature intended that the judgment as to whether the Premier no longer commanded the support of a majority of the house was to be left to the Governor's assessment without any limitation as to the material on which he was to base his judgment on. Accordingly, the Governor could remove the Premier from office under the provision without a prior decision or resolution on the floor of the house showing that the Premier no longer commanded the support of a majority of the house.

The implication of the court's adoption of the Literal rule in this case is that the Governor's power to remove the Premier was left tohis absolute discretion and without recourse to the House of Assembly. We posit that this provision is susceptible to abuse and highly unjust.

Though the courts over the years has adopted the literal rule of statutory interpretation;this paper submits that irrespective of whatever quantum of value this rule has to statutory interpretation, such values must be qualified with the fact that even if words have a plain meaning such meaning must be just and make sense.

2.2 The Golden Rule

This rule evolved from the English case of *Becke v Smith.* In this case, Baron Parke J[1] observed as follows:

> …it is a very useful rule in 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 repugnance, in which case the language may be varied or modified, to avoid such inconvenience, but no farther.

The golden rule permits modification of the literal sense of words of the statute where adherence to the literal sense would lead to absurdity. To that extent, it is a shift from the literalist approach to interpretation of statutes. The golden rule permits the grammatical and ordinary sense of the words used in a statute to be modified to avoid absurdity and inconsistency where adherence to the grammatical and ordinary sense of the words would lead to absurdity.

Thus, the rule comes into play when the literal interpretation of a statute will lead to ambiguity, absurdity or injustice.

In the Nigerian case of *C.O.P v Okoli*, the court adopted the golden rule. In the case, the Magistrate preferred a charge against both accused persons after hearing evidence. Both persons pleaded not guilty and through their counsel applied to recall a

prosecution witness. The witness was not in the court, and the Magistrate issued a warrant for his arrest and production before the court. When, after a suitable adjournment, the witness had not been traced, the Magistrate discharged both accused persons on the ground that the provisions of Section 162 Criminal Code are mandatory. The prosecution appealed. The court held that the words of Section 162 Criminal Code are mandatory but to interpret this section literally could result in impossibility. Hence, the court varied the meaning.

The Indian law also recognized the golden rule as mentioned earlier in this work. Das, J in the case of *Jugulkishore v Cotton Co. Ltd.*, state as follows:

> The cardinal rule of construction of statutes is to read the statute literally, that is by giving to the words used by the legislature their ordinary, natural and grammatical meaning. If, however, such a reading leads to absurdity and the words are susceptible to another meaning, the Court may adopt the same. But if no such alternative construction is possible, the Court must adopt the ordinary rule of literal interpretation.

This paper submits that the golden rule is an improvement of some sort on literal rule of interpretation. We shall now proceed to a discussion of another rule of interpretation.

2.3 The Mischief Rule

The mischief rule is traditionally referred to as the rule in *Heydon's case*, because it is governed by the guidelines enunciated from that case. The issue submitted for resolution involved the construction of leases, life estates, and statutes. The Court of Exchequer found that the grant to the Wares was protected by the relevant provision of the Act of Dissolution, but that the lease to Heydon was void.

The guidelines formulated from this case are as follows:

(a) An examination of the previous state of the law before the Act.
(b) The mischief for which the law did not provide prior to the Act.
(c) What is the remedy the parliament has resolved and appointed to cure the defect of the law as it stood prior to the Act, and
(d) The true reason for the remedy

The primary obligation of the court under this rule is to make such construction that will suppress the mischief and advocate the remedy. This rule becomes applicable where there is latent ambiguity in the words used in the statute. Under this rule, the courts consider the provisions of a previous statute in order to ascertain and determine the purport of the new legislation. A previous statute may be of assistance in the interpretation of a later legislation in these ways:

(a) The court may consider the meaning ascribed to words in a previous statute in order to ascertain the meaning of such word in a new statute dealing with the same subject.
(b) The course, which a legislation on a particular point has followed often, provides an indication as to how the present statute can be interpreted.

Relying on this rule of interpretation in the Nigerian case of *Emelogu v The State,* the Supreme Court enquired into the intention of the legislature in the Repeals and Modification of certain Decrees. While determining the *locus standi* of the State Attorney General, Nnaemeka Agu JSC as he then was stated as follows:

> Unless I put the legislation on armed robbery in their proper historical setting…I cannot reach a correct decision in the matter…I feel entitled to call in aid the historical background of the enactment in order to correctly comprehend the true import thereof. Although the court is not at liberty to construct an Act of parliament by the motives which influenced the legislature, yet when the history of legislation tells the court what the object of the legislation was, the court is to see whether the terms of the section are such as fairly to carry out that object and no other, and to read the section with a view to finding out what it means, and not with a view extending it to something that was not intended.

The Indian legal system has also applied the mischief rule in plethora of cases.

2.4 The Liberal Approach

The liberal approach to statutory interpretation is used when it comes to interpretation of constitutional provisions. Such interpretations must be broad and wide. The focus of this approach is to see how best the objects and purpose of the Constitution can be achieved .

The Liberal approach is most often employed by the courts where what is to be construed is a constitutional provision, where rights and freedom are in jeopardy and where the provisions ousting the jurisdiction of a court is sought to be interpreted. The liberal approach affords the court the opportunity to go beyond the strict and literal interpretation by giving any interpretation, which meet the realities of justice in the case. The court adopted the literal approach in the Nigerian case of *Shelim v Gobang*. In this case the Supreme Court was called upon to interpret the provisions of section 283 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) as it relates to the jurisdiction and composition of the Customary Court of Appeal. The court counselled that when the relevant sections of the constitution are being interpreted, the courts should move toward adopting the liberal approach.

The Indian legal system also recognized the liberal rule to statutory interpretation.

The courts adopt the literal approach mostly in cases where the issue before the court deals with the interpretation of constitutional provisions.

2.5 The Purposive Rule

This rule evolved from the practice of looking into the purpose clause found in statutes. This is used as basis to ascertain the meaning to be ascribed to the words or particular sections of such statute in case of uncertainty. The rule permits the reader of a statute to resort to the contents of the statutes in other to determine the intention of the legislature. The official reports or record of proceedings at the committee stage of the Bill may also be consulted in order to determine the intention of the legislature. The House of Lord in the case of *Pepper (Inspector of Taxes) v Hart*enumerated the circumstances under which the rule may be resorted to when it stated as follows:

> …having regard to the purposive approach to the construction of legislation the Courts had adopted in order to give effect to the true intention of the Legislature, the rule prohibiting the courts from referring to parliamentary materials as an aid to statutory construction should, subject to any questions of parliamentary privilege, be relaxed so as to permit reference to parliamentary materials where:
>
> (i) The legislation was ambiguous or obscure or the literal meaning led to an absurdity.
>
> (ii) The material relied on consisted of statements by a Minister or other promoter of the Bill which led to the enactment of the legislation together, if necessary, with such other parliamentary material as was necessary to understand the statements and their effect, and
>
> (iii)The statements relied on were clear.

Thepurposive approach was adopted in the Nigerian case of *Ohanenye & Ors v Ohanenye And Sons Ltd & Anor*. In this case, the court observed that in the English case of *Pepper v Hart* cited with approval in the case of *Attn. AG. Lagos State v Attn. AG. Fed* the House of Lords, per Lord Bridge of Harwish observed at page 50, thus:

> "The Courts now adopt a purposive approach which seeks to give effect to the true purpose of legislation and are prepared to look at much extraneous material that bears on the background against which the legislation was enacted."

A consideration of the various guidelines enumerated above on when the purposive approach could be resorted to, show that this approach is a revamped version of the literal, golden and mischief rules of statutory interpretation. It is a harmonization of the principal rules of statutory interpretation.

The next segment of this work will entail a discussion of the various aids to statutory interpretation.

2.6 Internal aids

Towards ascertaining, the meaning associated with the words used in a statute the courts may resort to the use of some internal aids provided in the statute. For instance:

(i) Where there is a definitional section in the statute, such section may be consulted in case of ambiguity or problem with interpretation of any of its sections.

(ii) The proviso of a statute may also be consulted when ascertaining the meaning of words used in the statute. The purport of a proviso in a statutory provision is to qualify or cut down the enacting clause, which precedes it.

(iii) Though, marginal side notes or marginal note do not form part of the statute, the courts resort to them in order to ascertain the meaning of words used in the statute where such words are ambiguous or at variance with the intention of the statute.

(iv) Reference may also be had to the title, preamble and heading of a statute in order to ascertain the meaning of words used therein.

It is also important to state that Indian law also recognizedthe use of internal aid in statutory interpretation based on its application in some judicial decisions.

2.7 External Aids

2.7.1 Maxims of Interpretation

Nigerian and Indian courts also place reliance on some Latin maxims where applicable when confronted with interpretational difficulty. These maxims are relics of English law bequeathed to common law countries of which Nigeria and India are part thereof.

In the Indian case of *R.K Rim Private Ltd v. Commissioner of Sales Tax Mumbai & Anor* the court observed as follows;

> … it would not be out of place to mention that maxims in law are said to be somewhat like axioms in geometry. They are principles and authorities and part of general customs and common law of the land. These are sorts of legal capsules useful in dispensing justices. In other word maxims can be defined as established principle of interpretation of statute…

A brief summary of relevant applicable maxims of statutory interpretation will now be discussed in the next segment of this work.

i. Ejusdem Generic Rule

This rule of interpretation is to the effect that where a specific provision in a statute is followed by a general word; the general word must be interpreted or confined to things of the same kind as those specified. In the Nigerian case of *Nasir v Buari*, the court was to construe within the context of section 1(1) of the *Rent Control (Lagos) Amendment Act 1865*, whether premises used partly as living accommodation and partly as a nightclub qualify as premises within the context of the provisions of the above-mentioned Act. The Act defined premises as a building of any description occupied or used by persons for living, sleeping, or other lawful purposes as the case may be whether or not at any time, it is also occupied or used under any tenancy as a shop or a store. The court held that other lawful purpose must be interpreted within the context of purposes similar to sleeping or living. Thus, the premises used partly as a night-club therefore were not premises within the meaning of the provision notwithstanding the fact that it was partly used for living.

(ii) Expressio unius est exclusio alterius:

This means the express mention of one thing implies the exclusion of other things not so mentioned.

(iii) Fortissime contra preferentes:

This maxim is to the effect that a statute should always be interpreted in such a way as to preserve the right of the parties. This maxim is used where there is ambiguity in the provision of a statute and such is capable of two meanings. For instance, where one takes away a right of a citizen while the other preserves it. Under such circumstance on the presumption that propriety rights are not taken away without a provision for compensation, the interpretation, which preserves the right, is to be preferred.

(iv) Generalia specialibus derogant:
It is a principal rule of construction of statute that general words must not derogate from special word. Thus when a provision of a statute is made subject to another provision that provision must be read subordinate to that made subject to it.

(v) Lex Loci rei sitae:
The above maxim means the law of the place where the matter in dispute is situated. Customarily, this maxim is operative where there is dispute in succession of a deceased estate in respect of immovable properties.

(vi) Lex neminen cogit ad vana seu inutilla:
This maxim is to the effect that the law will not force one to do a thing vain and fruitless.

(vii) Lex prospicit non respicit:
This maxim is to the effect that the law is progressive and not retrogressive; unless a contrary intention is shown.

(viii) Nemo enim aliquam partem recte intelligere possit antequam totum iterum atque iterum perlegerit:
The meaning of this maxim is that no one can understand any part of a statute without reading or perusing the whole repeatedly. Thus, when courts are confronted with ascertaining the meaning of words or sections of a statute, the court must consider any other parts of the statute, which throw light upon the intention of the legislature.

(ix) Utres magis valeat quam pereat:
This rule of construction is to the effect that the court has an obligation to construe an existing law in such a way as to make it have effect and if need be to apply such modification necessary to make that law effective, rather than declaring it void.

(x) Delegatus non potest delegare
This is a principle of constitutional and administrative law which in latin means that 'no delegated powers can be further delegated' alternatively it can also be expressed as '*delegatus non potest delegare'* that is on to whom power is delegated can not himself further delegate that power.

(xi) Generalia Specialbus non Derogant
This latin maxim means that the provision of a general statue must yield to those of a special one.

(xii) In Pari Delicto Potioe est Conditio Possidentis
This latin expression means that 'in equal fault better is the condition of the possessor'

3.0. Law Curriculum and Statutory Interpretation.

The curriculum of study designed for law students in Nigeria both at the University and at the Nigerian Law School place little emphasis on this area of study. The importance of this scope of study to aspiring lawyers cannot be overemphasized. Words ordinarily are the tools of a lawyer. Aside from this, lawyers encounter problems with words when it comes to the drafting of statutes and documents. Words are semantic and are capable of having different meaning depending on the context in which they are used and the intention of the person using them. Some words are ambiguous and capable of having two or three meaning. Lord Denning captured the problems associated with words vividly in the case of *Seaford Court Estate Ltd. v Asher* as follows:

> Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English Language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of parliaments have often been unfairly criticized. A judge believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold his hands and blame the draftsmen. He must set work on the constructive task of finding the intention of parliament.

The above quotation attest to the importance of words to a lawyer. In view of this, it is our view in

this paper that all lawyers during the course of their training should undertake a compulsory course in this area of the law; particularly in the area of legal drafting and principles of statutory interpretation.

4.0 Distinct Rules or Harmonization of Existing Rules of Interpretation: Whither Nigerian Jurisprudence.

Currently Nigerian jurisprudence recognized about five principal rules of statutory interpretation; with other ancillary rules. The fact must be noted that each of the cardinal principle/ or rule of statutory interpretation, the internal and external aids and maxims of interpretation are focused towards ascertaining the meaning to be given or associated with a word or section of a statute; an exercise aimed at ensuring that the end of justice is served. These canons/rules of interpretation take the form of broad general principles with a common feature that most of them are of little practical assistance in settling doubts about interpretation in particular cases. This is partly due tothe vaguenessand theevasiveness of the words to be interpreted. In reality, there are cases or instances where one canon or rule of interpretation appear to support a particular interpretation;and at the same time, it supports an opposite interpretation of the same words or statute.

The position of the law is that in interpreting the provisions or sections of a statute or indeed the constitution, such provisions or section should not without taking into consideration other parts of the statute or constitution. That is to say, the statute or constitution must be read as a whole in order to determine the intendment of the makers of the statute or constitution.

The above position of the law is the focus of the purposive approach. It requires judges to ascertain the legislative intent of the lawmakers, a task that is similar to ascertaining the intent of a testator. This approach requires recognition and implementation of the purpose of the statute.

This approach seeks to give effect to the true purpose of legislation and take into cognizance extraneous materials that have bearing on the background against which the legislation was formulated\enacted.

We posit that the purposive approach is a revamped version of the other principal rules of interpretation because it entails the inherent attributes of the literal, golden, mischief and liberal rules of interpretation.

In reality and practice, where the literal meaning of a word is not discernible, resort is expected to be made to the golden rule. Where however the golden rule will lead to ambiguity, one is expected to adopt the mischief rule. Further resort is allowed to be made to the purposive approach where the mischief rule will work injustice.

For these reasons, we hold the view that the purposive approach being a convergence of the various rules of statutory interpretations; there in no basis for the continued classification of the rules of statutory interpretation as separate rules under the Nigerian jurisprudence and this should be discouraged except circumstances and exigencies of justice so demands.

5.0 Conclusion.

The above discourse 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 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 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.

The legal curriculum introduces students briefly to this area of law at a certain level of their studies in law.

Failure to put words in proper context makes such word to be ambiguous and ascertaining its proper meaning becomes difficult due to the complexity of languages. For instance the word "Well" or "Capital" are capable of different meanings.

See The Holy Bible: Acts of Apostles Chapter 11 vs 19 – 30.

Zechariah Chafee Jr., "The Disorderly Conduct of Words", 41 Colum .L. Rev. 381, 382 (1941)

See generally Abner J. Mkva & Eric Lane, Legislative Process 111 (Aspen Law and Business 2nd ed. 2002).

(1949) 2 KB 481 at 498, 499. Denning M.R. observed as follows:

It would certainly save the judges trouble if Acts of Parliament were drafted with perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold his hands and blame the draftsmen. He must set work on the constructive task of finding the intention of parliament, and he must do this not only from the language of the statute but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy and then he must supplement the written words so as to give force and life to the intention of the legislature. …Put into homely metaphor, it is this: A judge should ask himself the question: if the makers of the Act has themselves come across this rock in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must not alter the material of which it is woven, but he can and should iron out the creases.

Ibid

Nomita Aggarwal Jurisprudence: Legal Theory 9th ed. (Central Law Publication Allahabad 2012) p.143 .

See generally:Henry Campbell Black, M.A (ed.) Handbook on the Construction and Interpretation of the Laws 1. (St. Paul, Minn, West. Co, 1896).

See generally: Aharon Barak, (ed.) Purposive Interpretation in Law 3. (Universal Law Publishing Co. PVT., Ltd.Delhi,(2007) See also the following: C. Ogden and I. Richards(ed.) The Meaning of Meaning (10th ed. 1956); M.S. Moore, "The Semantics of Judging," 54 S. Cal. L. Rev. 151 (1981); R. Cross, Statutory Interpretation (J. Bell and G. Engle eds., 3d ed. 1995); H. Hart and A. Sachs, The Legal Process: Basic Problems in the Making and Application of Law 1374 (W. Eskridge and P. Frickey eds., 1994).

CAP C23 Vol. 3 Laws of the Federation of Nigeria 1999.

Sir William Blackstone in his Commentaries on the Laws of England, stated that the true function of judges was only to declare the law. Judges were "the depositories of the law; the living oracles who are bound by oath to decide according to the law of the land." Their task, Blackstone emphasized was not to decide cases according to their private ideas or values, nor were they "delegated to pronounce a new law, but to maintain and expound the old one. (Reading 1.1).

Advocates of this theory are mostly from common law countries and they are of the view that judges have played a great creative role in molding the law. e.g. Salmond, Lord Backon and Dicey A.V. and Oliver Wendell HoLmes. See Nomita Aggarwal Jurisprudence: Legal Theory (Supra pg. 132).

For instance in the Indian case of P. Ram Chander Rao v State of Karnataka (2000) 4 SCC 578, the court observed as follows: The primary function of the judiciary is to interpret the law. It may lay down principles, guidelines and exhibit creativity in the field left open and unoccupied by legislation. Courts can declare the law, they can interpret the law, they can remove obvious lacunae and fill the gaps but they cannot entrench upon in the field of legislation properly meant for the legislature. Binding directions can be issued for enforcing the law and appropriate directions may be issued, including laying down of time-limits or chalking out a calendar for proceedings to follow, to redeem the injustice done or for taking care of rights violated, in a given case or set of cases, depending on facts brought to the notice of the court. This is permissible for the judiciary to do. But it may not, like the legislature, enact a provision.

See the Indian case of Kesavanand Bharti v State of Kerala A.I.R(1973) S.C. 1461.

AIR (1973) SC 1461.

See for example Fredrick Schaller,"A critical guide to Vehicles in the Park", 83 N.Y.U.L. Rev. 1109, 1111-12 (2008) (revisiting the hypothetical case on "the fiftieth anniversary of a famous debate between the legal scholars H.L.A. Hart and Lon Fuller that used this example as a focal point.

Ibid.

Ibid.

Ibid.

Nomita Aggarwal Jurisprudence: Legal Theory(op cit)at p. 143.

(1932) A.C. 676 at 682.

Underlining for emphasis. See also the case of Ndoma-Egba v Chukwuogor (2004) All FWLR (Pt. 217) 735.

See the Nigerian case of I.B.W.A. v Imano (Nig) Ltd (1988) 1 NSCC 245, where the court held that where the words used are clear and unambiguous, they should be construed as they are and given their ordinary plain meaning.

See the Nigerian cases: Ogbeyiya v Okudo (1979) 6-9 SC 32, Abegunde v Ondo State House of Assembly (2015) 8 NWLR (Pt 1461) 314 at 357 para a-d.

2005 LPELR – 2061 (SC)

AIR 1967 SC 643

(1962) 1 All NLR 465. See also the Nigerian case of R v Banga (1960) 1 F.S.C 1.

1836 2 M&W 195 per Parke, B.

This rule was late restated by Lord Wensleydate in the case of Grey v Pearson (The Law Journal Reports for the year 1857. XXX V, New Series Vol. XXVI. Part 1:481 as follows:

[I]n construing wills, and indeed statutes and all written instruments, the grammatical and ordinary sense of the words is to adhered to, unless…

See the case of Grey v Pearson (1857) 6 HLC 61 at 106 per Lord Wensleydale.

(1966) NNLR 1.

AIR 1955 SC 376. 387.

(1988) 5 SCNJ 79.

See also the following Nigerian cases Savannah Bank (Nig) Ltd. v Ajilo (1989) 1 NSCC 135 and Ugwu v Araraume (2007)

All FWLR (Pt. 377) 807.
Nomita Aggarwal Jurisprudence: Legal Theory (op cit) at p.146.
(2005) All FWLR (Pt. 496) 1866.
This position is also in conformity with the view expressed by the Supreme Court of Nigeria in the Nigerian case of A.G. Ondo State v A.G. Ekiti State (2001) All FWLR (Pt. 79) 1431 where the Supreme Court of Nigeria held as follows:
Courts are enjoined to approach the construction of provisions of the Constitution liberally. By this, it is meant to construe where the question is as to whether the expression used in the constitution should be applied in the wider or narrower sense, the court should, whenever possible and in the interest of justice, lean to the broader interpretation, unless there is something in the text or the rest of the Constitution indicating that the narrower interpretation will best carry out the objects and purposes of the Constitution. See further the Nigerian case of Buhari v Obasanjo (2005) All FWLR (Pt. 273) 1. See also the following Nigerian cases: Nafiu Rabiu v Kano State (1980) 8-11 SC 130, A.G. Bendel State v A.G. Federation (1981) 10 SC 1, Mohammed v Olawunmi (1990) 2 NWLR (Part 133) 458.
See Mani Tripathi & Rajiv Mani,Jurisprudence Legal Theory,19th ed. (Allahabad Law Agency Law Publishers, Faridabad) P. 262. 2013.
(1993) 1 ALL ER 42
This position was followed in the Nigerian case of A.G of Ondo State v A.G Ekiti State (2001) FWLR (Pt. 79) 1431.
(2016) LPELR-40458 (CA).
Supra.
(2003) LPELR 620 (SC).
See the case Nigerian case of Aluko v D.P.P. Western Nigeria (1963) 1 All NLR 398.
See the Nigerian case of Abasi v State (1992) 8 NWLR (Pt. 260) 383. In this case the Supreme Court stated per Karibi Wyte J. SC, held thus:
it is a well recognised principle of the interpretation of statutes that a proviso is an exception to the main rule. The object of a proviso in a statutory enactment is to qualify or cut down the enacting clause which precedes it. In reality, it is used as an exception to the main rule. Where the words of a section are capable of showing more than one meaning the proviso will show the proper meaning to be attached to it.
In thecase of Angara v Charismatic Shipping Co. Ltd (2001) 8 NWLR (Pt. 716) 685, where the court held as follows:
Although, in modern times, marginal notes do not generally afford legitimate aid to the construction of a statute, it is, however, permissible to consider the general purpose of a section and the mischief it is aimed with the marginal notes in mind. In the instant case, the literal meaning of section 16(4) of the Admiralty Jurisdiction Decree No. 59 of 1991, will work injustice (that should not be so). The court can in interpreting the section have the marginal note in mind which provides: liability for principal and agent. The mischief aimed at with the marginal note is the avoidance of a situation where the principal will always escape liability.

In the Nigerian case of Ibrahim v J.S.C (1998) 14 NWLR (Pt. 110) 1. Wali J.S.C stated as follows:
…Where there is doubt or obscurity in a statute, its title or heading may be consulted as a guide; the preamble may also be construed to determine its rationale, thus the true construction of terms while section heads may be looked at as forming part of the statute. A title of a statute, both long and short, are to provide a guide for its construction but not to control its clear provision.
See generally:https://indianlawportal.co.in. Access on 26 October 2020.
Sales Tax Appeal No. 2 of 2009 (VAT Appeal No. 2/2009). Decided on: 06-05-2010. Available at http://document.manupatra.com. Accessed 26th October 2020.

(1969) 1 All NLR 35.
See the view of Vaughan Williams, L.J. in the case of Tiumanns & Co v S.S. Knutsford Co (1908) 2 K.B. (1908 A.C. 14. See also the Nigerian cases of Okunueye v FBN (1999) 6 NWLR (Pt. 457) 749, and Okeowo v FRN (2005) All FWLR (Pt. 254) 858.

This principle was aptly captured in the Nigerian case of S.E.C. v Kasunmu, (2009) All FWLR (Pt. 475) 1684 wherein the Court of Appeal in Nigeria stated as follows:
In the construction of a statutory provision, where a statute mentions specific things or persons, the intention is that those not mentioned are not intended to be included. In other words, the express mention of one thing in a statutory provision automatically excludes any other which otherwise would have applied by implication with regard to the same issue.
See also the Indian case of Probhani Transport Cooperative Society Ltd v. Regional Transport Authority Aurangabad & Ors (1960) SCR (3) 177.

This principle was adopted in the Nigerian case of A.G. Bendel v Aideyan (1989) 4 NWLR (Pt. 188) 646 where the validity of acquisition was being challenged. The Supreme Court stated as follows:
It is settled law that expropriatory statutes which encroach on a persons proprietary rights must be construed fortissimo contrapreferences that is strictly against the acquiring authority by sympathetically in favour of the citizen whose property rights are being deprived. Consequently, as against the acquiring authority, there must be a strict adherence to the formalities prescribed for acquisition.
See the case of Schroder v Major (1989) 2 NWLR (Pt. 101) 1.
See the Indian case of Mark Netto V. State of Kerela (1979) 1 SCC 23.
See the Indian case of A.K Roy v. State of Punjab (1986) 4SCC 326 and Sahni Silk Mills (P) Ltd & Anor v. Employees' State Insurance Corporation (1994) 5 SCC 346.
See the Indian cases of Maharaja Protab Singh Bahadur v. Man Mohan Dev. AIR 1966 SC 1931 and CIT v. Shahzada Nand & Sons (1966) 60 ITR 392 (SC)
See the Indian case of Immani Appa Rao v. Callapalli Ramalingamurthi (1962) 3 SCR 739.
Supra 498-499.
See the Nigerian case of Nafiu Rabiu v The State (supra) at 326 Per Sir Udo Udoma JSC.
See the case of Train v Colorado Public Interest Research Group Inc 426 v S1, 9-10 1976.