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Purposive Approach to Statutory Interpretation: Comparative Analysis and Impact on Nigerian Legislative Drafting

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Abstract

This paper examines the rising prominence of the purposive approach to interpretation, which considers the underlying legislative purpose to inform the interpretation and application of statutes. The persistent ambiguity and unintended consequences of applying the literal rule in legislative drafting necessitate thoroughly examining the potential and challenges of adopting a purposive approach to statutory interpretation. Through a comparative analysis of legal systems in the UK, France, Canada, South Africa, and Nigeria, the paper explores how the purposive approach has influenced legislative drafting and judicial interpretation. One of the specific objectives of this research is to study the potential and limitations of adopting a purposive approach to statutory interpretation in Nigeria through improvements in legislative drafting practices and judicial application. To ensure a comprehensive and rigorous analysis, the paper employs a doctrinal research method. The paper finds that a purposive approach to statutory interpretation enables users to ascertain the legislation's purpose easily. It improves clarity and efficiency. It also enables the user to discern the legislative intent easily. This will enable the courts to interpret laws in a manner that will further the purpose of the legislation. The research recommends that drafters should incorporate mechanisms by inserting a purpose clause in the legislative proposal to promote a purposive approach to the interpretation of statutes.

Key words: Statutory Interpretation, Purposive Approach, Comparative Analysis, and Nigerian Legislative Drafting.

1. Introduction

A purpose clause is a simple statement of intent that appears at the beginning of a part or sub-part, either as a stand-alone section or as part of another section.[1] The purpose clause is used to help the reader interpret the provision or the entire enactment. Navigating the complex world of law often feels like traversing a labyrinth of statutes, each a meticulously crafted document intended to shape and regulate conduct. However, the very precision of these legal pronouncements can sometimes conceal their true meaning, leading to confusion and unintended consequences. In this intricate domain, statutory interpretation emerges as the compass, guiding us through the thicket of words to the heart of legislative intent.[2] Traditionally, interpretation relied heavily on the 'literal rule,' meticulously dissecting the plain meaning of every word. While seemingly straightforward, this

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

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

approach often proved too rigid, failing to capture the nuances of legislative purpose and leading to outcomes at odds with the lawmakers' vision. Recognizing these limitations, legal systems worldwide began to embrace a more dynamic approach: the purposive approach to statutory interpretation.[3]

Under the purposive approach, the interpreter delves beyond the surface of words, delving into the statute's legislative context, history, and underlying aims. Legislative drafters can foster a more responsive and just legal system by equipping judges with the tools to interpret statutes in light of their underlying purpose. Such a system, capable of adapting to evolving societal needs while remaining faithful to legislative intent, promises to serve the Nigerian people more effectively.[4]

This paper adopts a comparative lens to examine the evolution and application of the purposive approach across diverse legal systems. The paper draws insights from prominent jurisdictions like the UK, France, amongst others. Exploring how they have grappled with the opportunities this approach presents. However, our primary focus will remain on Nigeria, a vibrant legal landscape where the purposive approach holds immense potential to shape the future of legislative drafting and interpretation.[5]

2. Legal Framework on Interpretation of Statutes in Nigeria

2.1 The Constitution of the Federal Republic of Nigeria (CFRN) 1999 as amended

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

a) Section 6 of the Constitution of the Federal Republic of Nigeria 1999 (CFRN) vests the judicial powers of the Federation to courts for the Federation[6] and judicial powers of the State to courts for the State[7]. This is the section of the Constitution that gives power to the courts to exercise judicial powers. As noted above, the powers and functions of the courts include hearing and adjudicating on matters brought before them, interpreting laws, etc. The right of the Court to exercise the above powers and more is due to the legal backing of section 6 of the Constitution.

b) Section 232 of the Constitution provides that the Supreme Court shall, to the exclusion of other courts, have original jurisdiction in any dispute between the Federation and a state or between states if and in so far as that dispute involves any question (whether law or fact) on which the existence or extent of a legal right depends. This provision empowers the Supreme Court to hear any matter between governments. The matter could be based on facts, which would require the Court to determine the matter based on the facts of the case and judicial precedents, or it could be based on law, which would require the Court to

[3] O C Eze, 'Purposive Approach to the Interpretation of Statutes: A Comparative Analysis', (2011) 7 *The Nigerian Juridical Review*, 1-25.
[4] *Slaight Communications Inc v Davidson* [1999] 1 SCR 1038
[5] R Cross, *et al*, *Cross: Statutory Interpretation*, (4th ed, Oxford: Oxford University Press, 2018).
[6] Constitution of the Federal Republic of Nigeria 1999 (as amended) s 6(1).
[7] Ibid, s 6(2).

interpret the law to be able to answer the question brought before the Court. Consequently, the Supreme Court is empowered to interpret laws.

c) Section 233 of the Constitution provides inter alia that an appeal shall lie from the decisions of the Court of Appeal to the Supreme Court as of right where the ground of appeal involves questions of law alone…, decisions in any civil or criminal proceedings on questions as to the interpretation or application of the Constitution…. etc. This provision further buttresses the above section that the Supreme Court has the power to interpret the laws of the land and the Constitution of the Federal Republic of Nigeria. The provisions enabling the Supreme Court to interpret laws are replicated for all courts of the Federation[8] and the states[9] in chapter 7 of the Constitution.

2.2 Interpretation Act Cap I23 LFN 2004

The Interpretation Act is enacted by the National Assembly to provide for the construction and interpretation of Acts and specific other instruments used in regulating human affairs. The Act defines certain words and provides for the usage of those words. The Interpretation Act applies to all enactments if the drafter does not intend a different meaning. Where the drafter intends for a word to mean differently from what is provided in the Interpretation Act, the drafter defines such a word in the legislation. The Interpretation Act does not provide for a particular mode of interpretation to be adopted by the courts in interpreting statutes; it leaves that for the courts to determine.

3. Concept of Purposive Approach

A purposive approach to the interpretation of a statute is sometimes referred to as purposive,[10] purposive construction[11], purposive interpretation[12], or 'the modern principle in construction'.[13] It is a rule of interpretation used by courts to discover the purpose for which legislation is made. The rule requires a court to focus on the purpose of a statute, the intention of the Legislature when the statute was created, and the words of the statute itself. Although it could be said that this rule has similarities with the mischief rule, the rule not only advocates for looking for the gap in the old law and closing the gap with the new law, but it also infers the intent of the Legislature as to what the Legislature intended to achieve with the new law and gives rulings based on what is inferred.[14] Lord Denning M.R stated that[15]:'*We sit here to find out the intention of parliament and ministers and carry it out, and we do this better by filling in the gaps and making sense of the enactment by opening it up to destructive analysis'.*

In *United States v American Trucking Ass'ns*[16], a group of truckers and common carriers sought an injunction requiring the Interstate Commerce Commission **(**ICC**)** to regulate the qualifications and hours of service of all employees in the motor carrier industry, not just those whose jobs

[8]Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 239, 240, 241, 251, 254C, 257, 262, 267.
[9]Ibid, ss 272, 277, 282.
[10] P Richard, 'Pragmatism versus Purposivism in First Amendment Analysis' (2002) 54 (4) *Stanford Law Review*, 737.
[11]B Aharon, *Purposive Interpretation in Law*. (New Jersey: Princeton University Press, 2005).
[12]Ibid.
[13] E A Driedger, *Construction of Statutes*, (2nd ed, Butterworth & Co. 1998) p 83.
[14]Ibid.
[15]*Magor and St. Mellons Rural District Council v Newport Corporation* [1952] AC 189 (HL) at 191.
[16](1940) 310 U**S** 534.

affected public safety. The Court was asked to determine who was considered an 'employee' under section 204(a) of the Motor Carrier Regulation Reform and Modernization Act 1980. Because the statute did not define 'employee,' the Court turned to the legislative history. It concluded that Congress did not intend for the ICC to have the authority to regulate all employees, only those 'whose activities affect the safety of operation.' Hence, a purposive approach to interpretation has been used to deliver judgments that, if left to literal interpretation, would likely amount to injustice.

A merit of the purposive rule in interpreting a statute is that the rule enables judges to deal with situations unforeseen by the Legislature. As such, it also enables the Court to be flexible in addressing the changing societal needs. Furthermore, it enables the Legislature's intention when drafting an enactment to shine through, unlike in applying a literal rule. The purposive rule enhances clarity and efficiency. At a glance, the Court can understand the Legislature's intent and the legislation's purpose, making it easier to interpret effectively. Its demerits include courts being given too much power to develop the law, thereby performing the Legislature's function. Also, it encourages the infringement of the separation of power, and there is increased uncertainty due to lawmakers not quickly discerning their intentions.

3.1 Purposive Approach to Interpretation of Statutes by Nigeria Courts

Nigeria, like the USA, India, New Zealand, etc., has adopted a purposeful approach to interpreting statutes. However, it is still developing in Nigeria and has yet to be frequently and generally used. Nevertheless, the purposive approach has been relatively used in Nigeria. Udo Udoma JSC, the Supreme Court stated that[17]:

> *…My Lords, it is my view that the approach of this Court to the construction of the Constitution should be, and so it has been, one of liberalism…I do not conceive it to be the duty of this Court so to construe any of the provisions of the Constitution as to defeat the obvious ends the Constitution was designed to serve where another construction equally in accord and consistent with the words and sense of such provisions will serve to enforce and protect such ends.*

The above statement emphasizes the point that a Judge, in some circumstances, needs to look further into the purpose of a law even where the provision of the law is clear on its face. There are situations where provisions of legislation need a deeper dive into their meaning and purpose so as not only to satisfy the original intentions of the draftsman but also to ensure that the provision being interpreted aids in serving justice. In fact, Judges are encouraged to even go to the extent of creating new doctrines where the justice of the matter requires it. In the case of *Okonkwo v AG of Anambra State*[18], the Court applied the purposive rule of interpretation to give effect to the Legislature's intention in enacting a law relating to the disqualification of certain people from holding office. Similarly, in the case of *AG Bendel v AG Federation*[19] the Supreme Court used the purposive rule of interpretation to interpret the provisions of the Constitution to determine the scope of the powers of the Federal and State governments. Likewise, in the case *of Ojukwu v AG of Lagos State*[20], the Court applied the purposive rule of interpretation to interpret the provisions

[17] *NafiuRabiu v The State* (1981) 2 N.C.L.R. 293, 326
[18] (1981) 1 NCLR 218.
[19] (1981) 10 SC 1.
[20] (1985) 2 NWLR (pt. 6) 293.

of a state law relating to the acquisition of property to determine the rights of the parties involved in a dispute over the ownership of a piece of land.

The above cases show that the courts are no longer limited to the four corners of the statute. Nigerian courts have progressed from strictly applying the literal rule of interpretation to applying the rule of interpretation that best achieves fairness and justice in a matter. Courts are now free to examine any source that aids the interpretive process, even if the statutory language has an apparently plain and literal meaning.[21].

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

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

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

In the report of the English and Scottish Law Commissions[22], it was noted that:

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

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

The best way to connect a judicial approach to the interpretation of statute to legislative drafting is to incorporate such judicial practice in the legislation. As such, for judges to easily interpret legislation in the purposive style, the legislation should incorporate mechanisms that promote the purposive rule of interpretation. Therefore, drafters should utilize the purpose clause in legislation. It has been observed that no legislation in Nigeria employs the purpose clause[23].

Drafters must make clear the purpose of legislation to enable courts to interpret the provisions in line with the stated purpose. Thorton stated that:

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[21]*Sand & Gravel Co. v United States*, 278 US 41, 48 (1928).
[22]English and Scottish Law Commissions Report of Interpretation of Statutes (1969) para. 5.
[23]T C Jaja (2016) Judicial Interpretation of Legislation as a Source of Rules of Legislative Procedure and Legislative Drafting: A Comparative Study of United Kingdom and Nigerian Court Cases on Legislative Drafting. P. 42 Available at: <http://dxdoi.org/10.12775/CLR.2015.007>accessed 25 December 2023.

> *Now that the courts routinely take a purposive approach to statutory construction in many jurisdictions, there is an increased obligation on drafters to make the aim and object of legislation clear on the face of it.*[24]

Providing a purpose clause in legislation will enable the drafter and reader to quickly discern the intention of the Legislature, the meaning behind the words of the statute, and the purpose of the legislation. Purpose clauses are increasingly used in legislation for several reasons, which include communication reasons, as they make the primary purpose of legislation clear to readers before they get into the detailed provisions to help them understand and apply the legislation. It also helps to set the direction of legislation and to set a basis for implementing, monitoring, and assessing the performance of an enactment and guide the interpretation of the legislation.[25] In several countries, the purpose clause has been incorporated into their drafting style as it aids the interpretation of the statutes.

Nigeria must join this movement and adopt the purpose clause into our in-house drafting styles. This is even more necessary due to the routine use of purposive rules of interpretation of statutes in Nigerian courts. As the courts have moved with the times and have developed to the point of utilizing other rules of interpretation of statute aside from the three traditional rules of interpretation[26], the drafters should also be flexible and adapt to the changes in society and provide clauses that will enable the courts to ascertain the correct meaning of the provisions of statutes.

The objective clause is another important mechanism that will facilitate using the purposive rule of interpretation. The objective clause is used sparingly in Nigeria's drafting style. The clause helps the reader easily discern the legislation's aims and goals. Where an enactment contains a purpose, cause, and objective clause, the overall aim and purpose of the law should be easily understood by the courts to enable a straightforward interpretation of the law. Although it is argued that the objective clause has no legal backing and cannot be relied on in Court, it has been observed through several pieces of literature and judgments that provisions of a statute after the enactment clause can be relied upon by the courts. As such, the courts can rely on the purpose and objective clauses in interpreting a provision of a statute if needed.

It should be noted that the courts will always be faced with issues of interpretation of statutes no matter how well-drafted legislation is due. Also, drafters should not be bothered with the traditional rules of interpretation when drafting as it is not their area of expertise, nor are they the ones interpreting the law; their job is to draft legislation free from errors. However, even though they are not to be bothered with the traditional rules of interpretation while drafting, it has been observed that drafting techniques have been conditioned by the basic rules of interpretation and as such, drafters can incorporate drafting mechanisms that will be embedded in their drafting style. In this case, where a drafter believes that legislation requires a purpose clause, such a drafter should insert it into the legislation as it has been observed that judges construe legislation according to the existing rules of interpretation and the existing drafting techniques presented in the legislation.

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[24] G C Thornton, *Legislative Drafting* (London: Butter worths, 1996) p 54.

[25]Legislation Design and Advisory Committee, Designing Purpose Provisions and Statements of Principle (June 30th, 2022). Available at <Designing purpose provisions and statements of principle | The Legislation Design and Advisory Committee (ldac.org.nz)> accessed 27 December 2023.

[26] Golden, Literal and Mischief.

Consequently, where a law is intended to deviate from the current drafting techniques, provisions should be made to that effect by expressly indicating so in the legislation.

Section 1 of the Environmental Impact Assessment Act,[27] is a good example of the object clause in Nigeria. It provides for Goals and objectives of environmental impact assessment. Furthermore, section 2 of the National Theatre and the National Troupe of Nigeria Board Act,[28], which provides for the objectives of the Act, is also a perfect example of an Act that clearly states its purpose. Such laws will enable the courts to easily interpret them in line with their purpose, and adhering to the lawmakers' intention. In line with the above, there is a need for judges and legislative drafters to embark on continuous legal education about the interpretation of statutes and legislative drafting, respectively. This paper noted the lack of adequate training for judges training and even less training and attendance of seminars on statutory interpretation. Due to this, some Nigerian judges are not conversant with current statutory practices in the modern world. There is also little or no literature on the purposive approach to statutory interpretation and legislative intent in court libraries. A significant number of Legislative drafters in Nigeria are also not up to date with the current international best practices of interpretations. The lack of training of judges and drafters impedes the progress of using the purposive rule to statutory interpretation in Nigeria.

4. Lessons from other Jurisdictions on Utilizing a Purposive Approach to the Interpretation of Statutes

4.1 The United Kingdom

Statutory interpretation became widely used in common law systems, with the UK being the exemplar. In the UK, Parliament did not have a comprehensive code of legislation. Therefore, it was left to the courts to develop the common law.[29]. Consequently, the courts adjudicated matters and gave reasons for the decision arrived at by the courts, and the decision or judgment became binding on lower courts.[30]

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

In 1973, when the United Kingdom became a member of the European Economic Community, the purposive style of interpretation utilized by the European Union (EU) slowly seeped into the interpretation style of the UK. This is because the UK courts were required to utilize the purposive rule of interpretation when deciding on EU matters. This unintentionally made the UK slowly gets accustomed to the purposive approach, and it went on to utilize it in interpreting its domestic laws.

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[27] Cap. E12 LFN 2004
[28] Ibid.
[29] *Ibid.*
[30] N D Benshak, 'An Examination of the Attitude of the Nigerian Courts to the Use of Intrinsic and Extrinsic Aids in the Interpretation of Statutes' (2022). Available at <https://ir.nilds.gov.ng/bitstream/handle/123456789/983/upload.pdf?sequence=1&isAllowed=y> accessed 31 December 2023.

With the UK joining the European Economic Community, it had to adapt to the practices of the EU, including adopting the purposive approach to interpreting statutes.

This is illustrated in the case of *Pickstone v Freemans Plc*,[31]In this case, Miss Pickstone brought a claim against her employer under the Equal Pay Act 1970. She was employed as a warehouse operative and was paid the same as male warehouse operatives. However, Miss Pickstone claimed that the work of the warehouse operatives was of equal value to that done by male warehouse checkers, who were paid £1.22 per week more than they were. The employers argued that a female warehouse operative was employed on similar work to the male warehouse operatives, so she could not bring a claim under section 1(2) (c) of the 1970 statute for work of equal value. The House of Lords decided that the literal approach would have left the United Kingdom in breach of its treaty obligations to give effect to an EU directive. It, therefore, used the purposive approach and stated that Miss Pickstone was entitled to claim based on work of equal value even though a male employee was doing the same work as her. Although the use of a purposive approach to the interpretation of statutes had slowly been incorporated into the United Kingdom's practice of interpreting statutes through its compliance with EU's laws and treaties, the UK in 2020 left the European Union, as such, there grows the worry that the UK will revert to its old ways of mainly utilizing the three traditional rules of statutory interpretation.

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

4.1.1 Lessons for Nigeria:

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

a) **Moving Beyond the Literal Rule:**
Both countries employ the literal rule, giving words their plain meaning. However, the UK legal system allows for greater flexibility in moving beyond the literal rule when it leads to absurd or unjust outcomes. This promotes purposive interpretation, focusing on the intent of the legislation and its broader context. Nigeria could benefit from adopting a more nuanced approach, using extrinsic materials like debates and committee reports to understand legislative intent.[32]

[31][1989] AC 66, 3 WLR 265.
[32] S. A. Akpomudje(2010). Judicial Interpretation of Statutes in Nigeria: A Comparative Analysis. Malthouse Press, Lagos.

b) **Balancing Stare Decisis with Evolution:**
The UK's respect for stare decisis (precedent) ensures consistency but can sometimes hinder flexibility. However, the doctrine of distinguishing allows judges to differentiate rulings based on factual differences, and the House of Lords can overrule outdated precedents. Nigeria could benefit from a similar balanced approach, maintaining respect for precedent while allowing for necessary evolution and adaptation to changing societal needs.[33]

c) **Developing Clearer Drafting Techniques:**
The UK Parliament has made efforts to improve legislative drafting, using concise language and avoiding ambiguity. This reduces the need for complex interpretation and leads to more transparent laws. Nigeria could benefit from similar initiatives, such as establishing a central drafting unit with expertise in legislative language.

4.2 France

France operates the Civil Law legal system, which is the opposite of the English Common Law system.[34] France's legal system is based on written laws in statutes and codes, consequently, the French courts, *Cour de Cassation and Conseil d' Etat*, heavily rely on statutory interpretation.[35]. French judges are mandated to make decisions in every circumstance irrespective of whether the law is silent on the matter, as failure to make a decision may result in the prosecution of the Judge, as provided in Article 4 of the Civil Code.[36] Also, the French Civil Code does not provide any general rules of statutory interpretation. To resolve this difficulty, the French courts apply two basic methods to interpret enactments. These methods are the logical interpretation.[37] And the teleological approach.[38]

4.2.1 Logical Interpretation

This method entails the courts giving full supremacy to the plain and ordinary meaning of the provisions of an enactment.[39] The method suggests that where the statute is clear, plain, or unambiguous, and no absurdity arises in its application in the case, the Court must apply it literally.[40] However, when an absurdity arises, the Court will depart from the literal interpretation to avoid the absurdity. The Court may adopt the logical interpretation approach, where it considers the context of the provision in the light of the statute as a whole and its relationship with the other

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

[34] F Sands, 'Judicial Law making in France: The Contribution of Interpretation' (1997) 46 *International & Comparative Law Quarterly*, 873-909. Compares and contrasts the French approach to purposive interpretation with that of common law jurisdictions.

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

[36] French Code 1804. Available at <http://files.libertyfund.org/files/2353/CivilCode_1566_Bk.pdf> accessed on January 1st 2024.

[37]F L Fléron, 'Interprétationen droit français (PUF, 2019) 151-182. Provides a comprehensive overview of different interpretation methods in French law, including a detailed discussion of the teleological approach.

[38]R Mascher and P Sourdille, *French Law* (Cambridge University Press, 2023) 56-58. Discusses the "schematic and teleological" method of interpretation in French law, noting its emphasis on the purpose of the legislation.

[39] T Hervey, 'The French Civil Code and the Teleological Method of Interpretation' (2000) 15 *Edinburgh Law Review* 320-334. Explores the teleological method's historical origins and contemporary significance in interpreting the French Civil Code.

[40] Gerard Carney (n37) p.52.

branches of the Law to maintain the coherency and completeness of the legal system.[41]Where literal interpretation offers no solution, the Court may adopt analogical reasoning. This arises under Article 4 of the French Civil Code, whereby a court must decide a case even if the code provides no answer.[42]

4.2.2 Teleological Approach

This approach was advocated for by Francois Gény in his book Methoded'Interpretationet Sources en Droit PrivePostif in 1919, in which he posited that the social objective of enactment should be the focus of the courts when deciding a matter.[43] Francois explained that the teleological approach enables the Court to extend the code provisions to situations that were not contemplated at the time of enactment, thereby ensuring the code's application to changing social and economic conditions. This method advocates for identifying legislation's social purpose or objective in interpreting its provisions.[44]

4.2.3 Lessons for Nigeria:

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

a) Emphasis on Legislative Intent:

France prioritizes legislative intent. Parliamentary debates, preparatory works, and reports help understand the law's purpose and context.[45]Nigeria can benefit from considering legislative intent alongside textual analysis, leading to more informed interpretation and avoiding unintended consequences.

b) Purposive and Teleological Interpretation:

France interpretation aims to achieve the law's purpose, considering its broader social and economic context. The "esprit de la loi" (spirit of the law) plays a crucial role.[46]Adopting a more purposive approach in Nigeria, especially in dynamic areas like technology or commerce, could ensure that laws remain relevant and effective in evolving contexts.

c) Use of Jurisprudence and Doctrine:

Judges in France heavily rely on legal scholars and established legal doctrines to guide interpretation. Consistency and predictability are emphasized.[47]While precedent plays a role in Nigeria, the country could benefit from a more structured system of legal doctrines and academic contributions to inform judicial interpretation, fostering greater coherence and legal certainty.

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[41] Peter de Cruz, Comparative Law in a Changing World (2nd edn Cavendish Publishing Ltd 1999) p. 268.
[42]French Code 1804 (n38).
[43] Gerard Carney (n37) p.52.
[44] C M Germain, Approaches to Statutory Interpretation and Legislative History in France (2003) Available at<https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1233&context=facultypub> accessed 1 January 2024.
[45]J L Bergel, *Méthodologiejuridique* (4th ed., Paris: Presses Universitaires de France, 2013).
[46]A Bénabent, 'L'interprétation des lois', (2011) 1 (1) *Revue trimestrielle de droit civil*, 1-25.
[47]M Lasser, 'Judicial Deliberations and Legislative Intent', (2015) 125 (3) *The Yale Law Journal*, 421-492.

d) Role of Constitutional Review:
In France, the Counsel Constitutional reviews laws for constitutionality before enforcement. This ensures that statutes align with fundamental principles.[48] In Nigeria, strengthening judicial review powers, perhaps through a dedicated constitutional court, could enhance compliance with fundamental rights and principles, ensuring laws are interpreted within constitutional boundaries.

4.3 Canada
Canada has a legal system which is a combination of common law and civil law. Therefore, there is the question as to what mode of statutory interpretation Canada particularly applies. The approach combines the literal, golden, and mischief rules in Canada to create the 'modern principle.'[49] Driedger[50] noted that:

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

The case of *Re Rizzo & Rizzo Shoes Ltd*[51]reemphasized severally that the modern approach to statutory interpretation involves a "textual, contextual and purposive analysis of the statute or provision in question".[52] According to section 64(1) of the Ontario Legislation Act 2006, an Act "shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects".

This provision affirms that Canadian laws are to be interpreted purposively in the context of the legislators' intention. In *Ayr Farmers Mutual Insurance Co. v Wright,*[53]The Court outlined three factors to be considered in applying the purposive approach thus: (a) the language of the provision, (b) the context in which the language is used, and (c) the purpose of the legislation or statutory scheme in which the language is found. Therefore, in Canada, the purpose of enactment and history play an important role in how the courts approach the language of a piece of legislation. The ordinary meaning of words is still essential in interpretation, but legislative intent directs the courts to the context in which to situate its interpretation.

4.3.1 Lessons for Nigeria:
Canada, like Nigeria, operates within a common law system. However, there are nuances in their respective approaches to statutory interpretation that Nigeria can learn from.[54] Here are some key areas:

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[48]F Terré, *Introduction générale au droit* (10th ed Paris: Dalloz, 2012).
[49] R Sullivan, 'Statutory Interpretation in Canada: The Legacy of Elmer Driedger' Available at <kja321.files.wordpress.com> accessed 12 January 2024.
[50] EA Driedger, *Construction of Statutes* (Butterworths, 1983) p 81.
[51] (1998) 1 SCR 27.
[52] M P Falco, (2016) 'The Purposive Approach to Statutory Interpretation: What does it mean?' Available at: <http://www.mondaq.com/canada/x/542040/trials+appeals+compensation/The+Purposive+Approach+to> accessed 5 April 2017.
[53] (2016) ONCA 789.
[54]R.Côté, *The Interpretation of Legislation in Canada* (4th ed., Toronto: Carswell, 2016).

a) Purposive Interpretation:
In Canada, interpretation focuses on the "mischief" the law aims to address and the Parliament's overall purpose. Judges consider legislative context, debates, and social values.[55] While in Nigeria, literal interpretation dominates. Nigeria can benefit from adopting a more purposive approach. This ensures that laws remain relevant and practical, especially in dynamic technological areas.

b) Harmonious Interpretation and Stare Decisis:
In Canada, the Supreme Court prioritizes upholding consistency with existing jurisprudence (stare decisis) while allowing flexibility to adapt to evolving circumstances.[56] Striking a balance between precedent and adaptability is crucial. Nigeria could explore a more nuanced approach to stare decisis, recognizing the need for occasional reinterpretation of outdated laws.

c) Presumptions and Legislative Intent:
In Canada, presumptions like "legislative intent not to abrogate existing rights" guide interpretation. Judges also consider external materials like debates and committee reports to understand legislative intent.[57] Consequently, Nigeria could utilize similar presumptions and consider extrinsic materials when interpreting statutes. This promotes coherence and reduces unintended consequences.

d) Parliamentary Supremacy and Public Participation:
Parliament enjoys significant legislative power in Canada, but public participation through committees and consultations informs lawmaking. This ensures that laws reflect societal needs.[58] Strengthening public participation in lawmaking in Nigeria through consultations and committee hearings could enhance the responsiveness of statutes to public concerns.

4.4 South Africa

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

This provision mandates a court of law in South Africa to consider the legislation's objective and rank it higher than any other interpretation. Consequently, section 2(1) advocates adopting the purposive rule of statutory interpretation. This is because it is the purposive approach that allows the Court to dive deep into determining the objective of the legislation, its purpose, and the intention of the Legislature when enacting the statute. As such, in South Africa, the objective of the law or intention of Parliament is paramount in interpreting written law.

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[55] J Cameron, 'The Evolution of Purposive Interpretation in Canada,' (2014) 49 (2) *Supreme Court Law Review*, 377-422.
[56] D McLellan & J L Sharlow, *Administrative Law in Canada* (5th ed, Toronto: Irwin Law, Toronto, 2013).
[57] M L Adighibe, *Statutory Interpretation in Nigeria: Principles and Perspectives* (Abjua: LexisNexis, 2018).
[58] Interpretation Act, 2004 (Canada): <https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html: https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html: https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html: https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html> accessed 16 January 2024.

4.4.1 Lessons for Nigeria:

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

a) Emphasis on the Constitution: South Africa's Constitution is the supreme law, and all legislation must be interpreted harmoniously with its values and principles.[59] This provides a clear and overarching framework for legal interpretation, something Nigeria could consider strengthening through its own Constitution.

b) Purposive interpretation: South African courts prioritize understanding the purpose and goals of a statute when interpreting its provisions.[60] This approach ensures that legislation achieves its intended effect and avoids unintended consequences. Nigeria could benefit from adopting a similar purposive approach, moving away from purely literal interpretations.

c) Contextual awareness: South African courts consider the social, historical, and political context in which a statute was enacted. This ensures that the interpretation remains relevant and responsive to evolving circumstances.[61] Nigeria could benefit from incorporating contextual awareness into its legislative drafting and interpretation processes.

d) Openness to evolution: South African courts are not bound by precedent like other common law jurisdictions. This allows for more flexibility and adaptability in interpretation, especially as societal values and needs change.[62] Nigeria could consider how to strike a balance between precedent and flexibility in its legal system.

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

5. Conclusion and Recommendations

This paper analyses the purposive approach to the interpretation of statutes and its effect on legislative drafting in Nigeria. The paper observes that purposive approach is a tool that can address the rapid pace of societal change which necessitates continuous improvement in legislative drafting. Mastering the latest techniques and understanding evolving interpretations, like the shift from the literal to the purposive approach, are crucial for crafting effective and adaptable laws. Exposure to international best practices enriches this process and promotes harmonization with contemporary legal approaches.

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

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

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

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

However, it is observed that the legislation in Nigeria does not readily support the purposive rule of interpretation. This is where the effect of the purposive rule of statutory interpretation in legislative drafting comes in. It is found that just as the usage of the purposive rule of interpretation of statutes by the Judges has necessitated the need for inclusion of mechanisms to promote the use of purposive approach such as the purpose clause in the legislation, where legislative drafters start including purpose clause or object clause in the laws they draft, such action will enable the courts to actively utilize the purposive approach as the purpose of the legislation will be clear on the face of the law. Therefore, the effect is in two ways. It shows the need for synergy and collaboration between the Judiciary and the Legislature/legislative drafters. From the analysis and findings of this study, the paper recommends the following:

(a) To enhance legal clarity and ensure legislative intent is realized, there is a need to amend the Nigerian Interpretation Act and similar state-level acts to explicitly require courts to prioritize interpretations that best promote the Act's stated purpose. This approach, already adopted in countries like South Africa, Canada, Singapore, Australia, and New Zealand, empowers courts to achieve legislative goals effectively.

(b) Nigerian governments should consider developing a practical drafting manual to guide the use of purpose clauses in legislative proposals where required. This manual could establish standards for drafting clear, concise, and objective purpose clauses, contributing to a more precise and understandable legal framework.

(c) Nigeria should invest in continuous training and development for legislative drafters and legislators to ensure effective and contemporary legislation.