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Penal Repression for Breaches of International Humanitarian Law

An Examination of the Legal Framework for the Rights of Women with Disability in Nigeria

A Critical Analysis of African Concept of Human Rights

Giving Justice with the Left Hand and Seizing it with the Right Hand: Denial of Individual Direct Access to the African Regional Human Rights Courts

An Appraisal of Constitutional and Institutional Mechanisms for the Promotion, Protection and Enforcement of Fundamental Rights in the United States of America

An Appraisal of the Constitutionality of Local Government Administration in Nigeria

Control of Power and Remedies against Improper Administration

A Critical Analysis of Factual Causation in Road Accidents

Judicial Attitude to Semantic and Grammatical Ambiguities in Law

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102

TABLE OF CONTENTS

W.O. Egbewole Ph.D. & M.A. Etudaiye, Ph.D	Religion, Politics and Justice: Interplay of Forces in Nigeria	1
A.L. Haruna, M. Ciroma & A.U. Alkali	Penal Repression for Breaches of International Humanitarian Law	8
M.K. Adebayo & B.M. Abubakar	An Examination of the Legal Framework for the Rights of Women with Disability in Nigeria.	14
S.U. Oyelade	A Critical Analysis of African Concept of Human Rights	22
T.F. Yerima	Giving Justice with the Left Hand and Seizing it with the Right Hand: Denial of Individual Direct Access to the African Regional Human Rights Courts	40
A.A. Borokini	An Appraisal of Constitutional and Institutional Mechanisms for the Promotion, Protection and Enforcement of Fundamental Rights in the United States of America.	51
A.F. Afolayan	An Appraisal of the Constitutionality of Local Government Administration in Nigeria	67
B.O. Omoleye	Control of Power and Remedies against Improper Administrative Acts	79
Ngozi Alili	A Critical Analysis of Factual Causation in Result Offences	89
Ibrahim Imam & M.A.A. Mustapha (Mrs.)	Judicial Attitude to Semantic and Grammatic Ambiguities in Law	96
Victor Egwemi, Ph.D. & S.O. Usman	Corruption and Corrupt Practices in Nigeria: Manifestations and Consequences	105
A.M. Owoyemi	Requirement for the Consent of Attorney-General in Garnishee Proceedings against Funds in the Hands of Public Officer: The Need for a Shift in the Law	112
R.K. Salman	Trial Proceedings under the New Abuja and Lagos High Court Civil Procedure Rules 2004: Innovations and Shortcomings	122
Titi Hammeed	Clinical Legal Education in Nigeria: A Practical Approach to Learning Law	136
Y.M. Yusuf, Ph.D. & A.H. Diram A.O. Alubo Ph.D. & W.W. Longpoe	Right of Audience in Nigerian Law Courts: Clinical Perspective A Contemporary Appraisal of Essential Considerations of Bail and Bail Process in Nigeria	143 151

M.E. Onoriode	Personal Liberty of a Suspect: A Reflection on Bail in the Criminal Justice System in Nigeria	158
E.K. Adetifa	Liberalized Judicial Attitude in Pre-trial Bail: A Veritable for Prisons Decongestion	165
T.A. Yusuf	Weight attached to Oral Evidence: Whether an Issue for the Clinical Consideration of the Court	179
O.N. Ogbu, Ph.D.	An Analysis of some Critical Issues in the Admissibility of Public Document in Nigeria	188
R.J. Adebimpe	An Assessment of the Relevance of Proper Custody in Nigerian Law of Evidence	196
F.M. Kwede	Constraints to the Exercise of Voting Rights in Nigeria	203
Sani Adams, Ph.D.	Environmental Law and Policy in Nigeria: The Institutional Framework	214
Ehusani A. Jonathan	Tortuous Liability Principles: A Mechanism of Redress for Environmental Wrong Victims	225
S.A. Zuru, Ph.D.	Geological Basis of Nigeria and the Scramble for Ownership of Oil Resources in the Niger Delta: Resurrecting the Forgotten Debate	238
Nathaniel Obikolie & Francisca Amene	An Appraisal of the Legal Framework for the Regulation of Food and Drug Industry in Nigeria	245
Val B. Ashi	Harmonizing Tourism Laws in Nigeria: Prospects and Challenges	254
Peter Ocheme, Ph.D.	Integrating Intellectual Property Rights in African Regional Economic Transactions: The Euro-American and Asian Experience	264
Olusegun Oyedepo	The Future of Special and Differential Treatment of Developing Countries within the World Trade Organization	275
K.M. Waziri	The Economic Benefits of the Protection of Industrial Property Rights in Nigeria	286
Y.I. Arowosaiye	Trade Disputes and their Settlement under the Nigerian Law: The Need for an Integrated Labour Relations Policy	296
S.M. Olokooba	Compensatory Right under the Nigeria Workmen Compensation Act 2004: How Realistic and Effective	304
A.K. Mgbolu	Claims Pertaining to Oil Spillage vis-à-vis the Jurisdiction of State High Court: An Appraisal of <i>Asaiah Abel & 2 Ors v. Shell Petroleum Development Co. Ltd.</i>	312

JUDICIAL ATTITUDE TO SEMANTIC AND GRAMMATICAL AMBIGUITIES IN LAW*

I. Introduction

Words are integral component of language and language is an undisputable tool of expression. It is through language we communicate and pass instruction across. Language may take a form of sign, writing or oral expressions. However, be it sign, written or conversational, the need may arise for the explanation and or interpretative effort for proper understanding of the word and meaning it convey. For example, literary critics, who appraise literary work of arts, need to interpret. A historian, who engages in the work of trying to understand or furnish a reckoning of past events and the roles of personalities, do interpret and give meaning out of what may be considered happened by accident or chance. This equally applies to judges¹ saddled with judicial powers when faced with ambiguous word in statute to invoke their powers under the Constitution to interpret and bring out the intent of the maker. When we discuss semantic and grammatical ambiguities in law, therefore, we are talking about word in its usage and the meaning it convey to the listeners, as intended by the maker (legislature) and judicial business in giving or interpreting the words as used. Thus, the focus of this article is to examine the relation between law and English language and the attitude of Court in its authoritative interpretative jurisdiction² to find the meaning and intent of the legislature where there is or no any grammatical ambiguity therein and suggestion on ways to avoid ambiguity in statute.

II. Words as Raw Materials of Law and as Basic Unit of Language

Words in their proper order are the raw materials of law and having a magic of their own, color, sound, meaning and associations. But choice of words in their right order has more magical power. An English writer Norman B,³ pointed out: "You take words, you put them together and in a way not explicable, they flash into life you have not a sentence but a song, a revelation a new creation of a joy forever". Words are the basic unit of language; it is grammatical unit; and the beginning of the study of syntax just like the word of God was with God in the beginning. Whenever we speak, we form a kind of thesis, our speech consist of word elements that form part of the structure of English⁴. These words, if spoken, may be subjected to different interpretation because of the problem of definition and scope when used. The Supreme Court decision in the case of *Attorney General Bendel State v. Attorney General of the Federation*⁵ supports this position. The Court observed that:

Words are the common signs that mankind make use of to declare their intention one to another and when the words of a man express his meaning plainly, there is no occasion to have recourse to any other means of interpretation.

It is a notorious fact the human being frequently fails to express his mind in precise and definite term thus making the meaning of an expression not being plain and clear. Judges, who are often called upon to explain words express by human being (written or spoken), must necessarily have recourse to the means of interpretation to finds out the intent of the maker. However, before going into the subject matter of discourse, it is desirable as in the study of any branch of law or topic related to or connected with law to endeavor to define and delimit in scope, some concepts of the topic

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¹ The Judiciary as an arm of government is the one vested with the power to interpret the Constitution and or Statute pursuant to section 6 (6) (a) of the Nigerian Constitution 1999 in congress with the philosophy behind the principle of separation of powers

² Interpretation generally can be defined as an action where the purpose is to limit uncertainties in texts to be interpreted. It may also be defined as giving, specifying or confirming some content of meaning from a group of possible meanings in the text to be interpreted. See generally Holland K.M.H (ed), *Judicial Activism in Comparative Perspective* (Houndmills 1991), in *Comparative Perspective*

³ Norman B, *Law and Literature in the Lawyer's Treasure* (Charted Education 1963) 134

⁴ Awolaja A.O., *Introducing the English Syntax And the Study of Meaning* (Ibitola Press, 2000) p. 1.

⁵ *Attorney General Bendel State v. Attorney General of the Federation* (1981) 10 SC 1.

under study. According to David B.G.⁶ semantic may mean; the branch of linguistic dealing with the meaning giving to words and the changes that occur to these meanings as time goes on. It is the relationship between symbols and the ideals given to them by their users or loosely, the twisting of meaning to mislead or confuse as in some advertising and propaganda.

From the foregoing definition, it is shown that word may have different meanings even in ordinary conversation. It is submitted that, language being the tool of law, the construction of legislation and statute, lawyers' tool of trade, the proper raw materials of law its peculiar characteristic way of legal drafting and usage have different meanings and coloration attached to it. The fact of the importance of language to law was complemented succinctly in the words of Scot's Guy Mannering⁷ that, "these are my tool of trade, a lawyer without history or literature is a mechanic, a mere working if he possesses some knowledge of these he may venture to call himself an architect."

The relationship between language and law in connection with problem of semantic has to do with the style of our written laws and peculiar usage of words in legal drafting. Because of this peculiarity, it is most often necessitate construction of phrase/word in legislation in attempt to find the intent of the user or legislator. The Supreme Court commenting on construing ambiguities in our statute, in the case of *Amokeodo v I.G.P.*⁸ said;

No universal rule can be laid down for determining whether provisions are mandatory or directory. In each case looking at the whole scope of the statute in particular and the importance of the provision in question in relation of the general object to be secured must be considered to ascertain the intention of the legislature.

III. Use of Words in Language and Law

Words generally have no single, proper and all encompassing meaning except, in the content in which the speaker uses them be it in ordinary conversation or legislation, thus meaning of word has to be study overtly and covertly. That is, by overtly we study meaning in language as a product of the meaning of word used alone, in phrase and in sentences. And by covertly we study meaning in language as a product of its concealed or hidden meaning as used in phrase and in sentence.⁹

For lawyers, language has a special interest because it is the greatest instrument of social control. Lawyers are perhaps apt to regard law as the sole, or chief means of social control, forgetting that law is only a special department of language and that, whereas the application of law is limited, language is all pervasive. From nursery days, words like coward, decency, manner, fairness help to stimulate conduct considered socially desirable and to repress conduct considered undesirable. In later life words like success blackleg and patriotic perform the same function. According to Glanville;¹⁰ the law with its verbal apparatus of rights, duties and wrongs is merely a particular application of language as a means of social control. Coming down to the more narrowly professional point of view, words are central importance for the lawyer because, they are in a very particulars way, the tool of his trade. Words occupy the lawyer's attention in the drafting and interpretation of statutes, wills, contract and other legal documents, other specialist like engineers, surgeons and painters are also concerned with words (namely, the words in which they communicate their ideas to each other) but not to the extent lawyers are.¹¹

⁶ David B.G. *New Webster Dictionary* (Oxford and IBH Publishing Co. New Delhi 1975) page 677.

⁷ Scot's Guy Mannering (1963: 134).

⁸ (1995) 5 SCNJ 71 at 82.

⁹ Awolaja. (n 3) p121.

¹⁰ *Ibid.*

¹¹ *Ibid.*

Words can be manipulated, that in essence, create problem as to meaning, definition or interpretation to be given to word or phrase used in sentence and or Statute. Words are no more than verbal recommendation of what the speaker feels they are within the context in which they are used. A first rate scholar, the late Mohammed Tukur¹² demonstrated the power of word as follows: t

Here in Nigeria, and on the basis of English language, there is one stock of words for abnormal behaviour when it involves the lower class thus, for identical conduct, a poor man is accused of stealing" while a member of the elite is chided with "embezzling" or "misappropriating". A girl from the lower class is branded as "shameless" while girl from upper class are described as "Sophisticated". Poor girl engage in "Prostitution" girl from bourgeois background merely have a "good time". The poor commit "adultery" the rich have "affairs". Poor women give birth to "bastard" and "illegitimate" child and high society women give birth to children out of "wed lock". The rich keep "mistresses" "sweetheart" and girlfriend" while the poor keep "concubine".

The foregoing statement shows that English language is not an instrument of mathematical precision otherwise our literature would be the poorer for it, if it were this account for the inevitability of manipulation of words in language or statute. The truth about the whole matter of semantic is that every case of construction of word used in phrase or sentence inevitably brings into sharp focus, the problem of imperfection of language. More significantly it also shows the abiding interconnection between law, language and the problems of semantic and or grammatical ambiguities.

IV. Judicial Attitude to the Problem of Language and Law

From time immemorial, legislature of various nations were known to have generated debated upon and passed various kind of Bills into law some, private sponsored while some emerge from the floor of the Legislative Houses. It is these bills passed into laws that are referred to as statute or established Rules of Law, (a law passed by a legislative body and set forth in a formal document). These Statutes are written in their special characteristic way of legislative drafting both at the drafting stage up to the passing of Statute into law. Thus, because of the peculiar way of legislative drafting and couching of the language used, it sometimes become unavoidably necessary to search for the true meaning and intent of the statute as expressed in language.¹³ These gave rise to the fact that judicial powers have to be invoked been the only body vested with the jurisdiction to interpret law and to solve as possible problem of language in law.¹⁴ Therefore, the rules and principles of interpretation of statute were developed to guide Court in deciding/constructing or addressing any ambiguity in statute. The Nigerian Constitution¹⁵ provides:

The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation.

The judicial powers vested in accordance with the foregoing provisions of this section shall extend, notwithstanding anything to the contrary in this Constitution, to inherent powers and sanctions of a court of law.

It is elementary knowledge that under a constitutional Government, there are three arms of Government. The legislature, which has the primary duty to make laws, the judiciary, which has the primary duty to interpret the said laws, and the executive that is responsible for the execution and maintenance of the laws made. On the realm of interpretation, which is within the competence of the judiciary, what the judiciary as an interpreter of the Constitution

¹² Mohammed Tukur: *Morality and Class, the Nature of Indiscipline in Nigerian Society* culled from M.M. Akanbi, "English Language and Law" *Nigerian Education Law Journal* Vol 4 NO 1, 2001 p. 121.

¹³ B. O. Nwabueze, *Judicialism in Commonwealth Africa*; (Hurst & Co London 1977) Pp 50-51.

¹⁴ Section 4 (1) of the Nigerian Constitution 1999.

¹⁵ Section 6 (6) *Ibid*.

does is, giving or searching for the exact meaning of the word used by the legislature in statute.¹⁶ Attempt is usually made to define the statute to bring out the intendment of the legislature. The Supreme Court on the issue of definition in search for legislative intent, in the case of *Federal Republic of Nigeria v. Mike Amaehie*¹⁷ said:

...Definitions are definition because they reflect the idiosyncrasies, inclinations, prejudice, slants and emotions of the person offering them. While a definer of a word may pretend to be impartial and unbiased, the final product of his definition will, in a number of situations, be a victim of bias.

As a result of uncertainty in the meaning of words, statutory interpretation has been described as an essential instrument in tackling the grammatical ambiguities in law. This is evidenced in the Supreme Court's observation in the case of, *Amodi v NNPC*¹⁸ that, "It is the duty of court of justice of try and get the intention of the legislature by carefully attending to the whole scope of the statute to be construed. To this end, the principle of construction has become well established in a stronger form; developed through judicial practice and legislation, these principles of construction of statute to mention but few include: Literal rule, Golden rule, Blue Pencil Rule, Mischief rule and *Ejusdem Generis* rule and all others.¹⁹

The problem of semantic in law has to do with the object of interpretation for the purpose of discovering the intention of the legislature. It must be observed, however, that such intention can only be deduce from the language used in the statute. It is well accepted that, the belief and assumptions of those who frame Acts of Parliament cannot be the law. On this premise, the courts of justice have, in a plethora of cases, emphasized the adherence to the literal and ordinary meaning of words used in statute. Such emphasis was once made by the Supreme Court in *Adisa v Oyinwale*.²⁰

The law is clear that resort to construction by implication is permissible only if the meaning of statute is not clear- "If the meaning of a statute is not plain, it is permissible in certain cases to have recourse to a construction by implication, and to draw inference and supply omission the literal meaning of a section of obscurity and ambiguity in the effect of the statute occasioned by the inclusion of the provisions of the section in the statute. It is thus wise that in considering a statute one may not limit oneself to literal clarity of a section in determining whether or not there is an ambiguity in the statute.

Therefore, in tackling the problem of semantic in law, the Court of Justice are enjoined to adhere to, where the language is plain and admits of one meaning, the literal and ordinary meaning of statute, being now the cardinal principle of interpretation in such situation. The task of interpretation can hardly be said to arise where the law enacted by the legislature must be enforced however harsh or absurd or contrary to common sense the result may be. In this case, therefore, the issue of construction of statute will not apply, the court must adhere strictly to the ordinary meaning convey by the statute even if ambiguous. It is in consideration of this crucial point that the Supreme Court has said in the case of *Egbu v. Chukwuogor*²¹ that:

...It is the law that the literal rule is the golden magic wand of interpretation when the word of statute is plain and unambiguous. It is fundamental rule that such words should be given their ordinary plain meaning.

¹⁶ *INEC v. Musa* (2003) 1 SC (pt I) 106 at 124.

¹⁷ *Federal Republic of Nigerian v. Mike Amachie* (2004) 1 SC (pt ii) 27 at 55.

¹⁸ *Amodi v. NNPC* (2002) 2 NSCQR 990 at 992.

¹⁹ *Ibid.*

²⁰ *Adisa v. Oyinwale* (2002) 2 NSCQR 1264 at 1292.

²¹ *Egbu v. Chukwuogor* (2004) 2 SC (pt I) 107 at 115.

As earlier noted the chief cause for the complaint about the problem of Semantic and law has to do with the style of our written laws. However, while in ordinary conversation the fine details or words may not be important, in law, they could produce far-reaching consequence for the parties. As Glanville Williams²² put it in his seminal work, "Language and Law": that;

With law, it is different, for in law, we make sharp consequence hang upon words of gradation. The question whether a man is left in freedom or detained in a mental institution depends on whether he is judicially classified as sane or insane as also does the question whether his disposition of property are upheld or not.

Thus, to avoid problem of semantic in law, it is important that, the language of statute or law be clear, simple and free from any ambiguity and the court stick to its ordinary meaning. As aptly put by S.M. Belgore JSC in the case of *Dyktrade Ltd v. Omina*:²³ "The court in this country must not look beyond statute when there is no ambiguity". Although, legislative draftsmen do their best to see that statutes are clear at least to the legally trained person, but even then, it may be necessary to decide some points where the meaning of a section is doubtful. The interpretation of statute is one important bulk of legislation and large body of case law has developed as the Courts lay down precedents in their interpretation of Act of parliament.²⁴

V. Judicial Interpretation and Construction of Language in Law

From the generality of the foregoing discuss, it is basically safe to conclude that, like in any other discipline, the problem of semantic cannot be divorced in legislation. This is because the use, construction, meaning and interpretation of words may depend on the ideological connotation of the word in a particular discipline.

A statute is the handwork of the legislature of many countries and many things may inform the promulgation of statute into law, especially with Nigerian being heterogeneous society, its historical antecedent, cultural/ language diversity, and political ideology play a significant role in final outcome of legislation. Thus, because of the peculiar nature of Nigeria, which also reflects in legislation, there is need sometime, to find out the intendment of legislature from the text of the statute itself especially, where the statute is ambiguous. It is apparent that the judiciary, represented by Courts has an inherent duty to find out what the legislature had in mind when certain laws were been drafted.²⁵

Statute law is embodied in an authoritative form of written words, and this literal expression is an essential part of the law itself, it is the duty of the Courts in general to apply the letter of the law. They (courts) are concerned with spirit and reason of it only so far as the spirit and reason have succeeded in finding expression through the letter; case law on the contrary, has no letter. It has no authoritative verbal expression, and there is no barrier between the Court of Justice and the very spirit and purpose of the law, which they are called on to administer.²⁶

Words used in statute may, on its outward, look so straightforward, it must be remembered that there is a spirit behind the letters. Thus, there must be caution in adducing meanings to such word, because, the legislature had their intention or reason(s) for promulgating such law, which the Courts have to find.²⁷ It is submitted that where a judge has to advice on a case before him, he will have to interpret a statute, where as there are volumes and volumes of such statute as the society progresses. According to Salmon;²⁸ interpreting and applying statute law, the Courts are concerned with words of the statute and their true meaning; interpreting and applying case law, where the words of the

²² Glanville L., *supra* note 10, p 117.

²³ *Dyktrade Ltd v. Omina* (2000) 3 NSCQR 153 at 160.

²⁴ P.W. Redmond: *General Principles of English Law*. (M & E Handbooks 1978) pages 26-27.

²⁵ *Egbu v. Chulwuogor* (n 21) 115.

²⁶ Salmon, *Jurisprudence*, (London: Sweet & Maxwell London 1966) Page 129.

²⁷ *International Bank for West African v. Imano* (Nig) Ltd (2001) 3 Sc 182.

²⁸ Salmon, *supra* note 26, p. 120.

statute are clear, is rigid, straightly bound within the limits of authoritative formulae; case law, with all its imperfections, has at least this merit, that it remains in the living contact with the reason and justice of the matter, and draws from this source a flexibility and a power of growth and adaptation which are too much wanting in the literal spirit of enacted law.²⁹

Nevertheless, while language attitude could be negative or positive, favourable or unfavourable, language conflict could be either internal or external depending on the circumstances surrounding it or their existence or co-existence.. However, the fact still remains that language is an instrument of law. It is of paramount importance to give a practical examples of judicial demonstration in construing some words use in legislation. The interpretation of section 180(2) (a) of the Constitution to determine when the tenure of a Governor commences in the case of *Obi v. INEC*³⁰ shows the industry of the judiciary in finding the true intent of the legislature as expressed in the word of constitution/statute. It is thus clear from the position of the Court that the tenure of office of a Governor commenced from the date he took the oath of allegiance and oath of office. Similarly it was the position of the Court in construing section 180(2) that there is noting in the constitutional provision that election to political offices in this country at Federal and State levels should be held at the same time.

The word "shall" in ordinary dictionary meaning indicates future predictions, determination or will, offers or suggestions, and orders or instructions. However, the Supreme Court in the case of *Amadi v. NNPC*,³¹ per M.L Uwais JSC (as he then was), while construing the word "shall" said;

It is settled that the word "shall" when used in an enactment is capable of bearing many meaning. It may be implying futurity or implying a mandate or direction or giving permission

While in the case of *Bamayi v. A.G. Federation*,³² per A.G. Karibi Whyte, construed 'Shall' as a command, which excluded the idea of discretion. In the words of his Lordship:

The word "shall" in the ordinary meaning of the word connote a command, and that which must be given a compulsory meaning. It has a preempting meaning, which is generally imperative and mandatory. It has the significance of excluding the idea of discretion to impose a duty. Where a provision provides that a thing shall be done the natural meaning is that a pre-emptory mandate is enjoyed.

Shall is used to express a command or exhortation or what is legally mandatory in the foregoing interpretations by the Supreme Court. The use of word 'shall' in the provision of section 2 (1) of Pension Act for, example, was construed as giving mandatory duty to a worker to either give 3 months notice of it intention to retire from service or pay 3 months salary in lieu to validly retire for the service³³. The Supreme Court in the case of *ADIH v. AT Ltd*³⁴ on the construction of the word "shall" when used in a Statute; Constitution or Rules of Court said:

There is no laid down rule as to whether the word "shall" used in a Statute carried mandatory or merely directory connotation and that its real purport depends by and large on the particular context in which it is used and its construction, whether used in the constitution, statute or Rules of Court is the same.

²⁹ *Ibid.*

³⁰ *Obi v INEC* (2007) 9 MJSC 1.

³¹ *Amadi v. NNPC* (*supra*)., *supra* note 28, p. 15.

³² *Bamayi v. A.G. Federation* (2001) 7 NSCQR (pt II) 990 at 10008-1009.

³³ *Amokeodo*, *supra* p. 71.

³⁴ *ADIH v. AT Ltd* (2007) 10 MJSC pp. 68-60., *Per* Tabai JSC.

Similarly, the word "decision" in the ordinary dictionary meaning connotes the act of deciding a conclusion reached, or a judgment arrived at. However, the Supreme Court of Nigeria *per* Uthman Mohammed JSC in *Bamayi v. Attorney General of the Federation*³⁵ interpreted the word "decision" in a restrictive sense. It stated:

Decision as interpreted in the 1979 constitution means; in relation to a court, "any judgment decree, order, conviction, sentence or recommendation" see section 318 of 1999 constitution. In Black's Law Dictionary Decision is explained as follows. "A determination of judicial or quasi-judicial nature; A judgment, decree, or order pronounced by a court in settlement of a controversy submitted to it and by way of authoritative answer to the questions raised before it. The term is broad enough to cover both final judgment and interlocutory orders.

A decision, therefore, is a pronouncement made by a Court that stands as its final verdict to a question brought before it for determination. Herein, the word "decision" as defined in ordinary meaning is giving a more restrictive legal technical sense relating only to a Court decision. Equally the word "procedure" and "conduct" were construed by Court differently. Procedure in ordinary dictionary meaning, a formal official order or way of doing things or a sense of direction that needs to be completed in order to achieve.³⁶ But the Supreme Court of Nigeria, while construing the meaning of procedure and conduct in item 11 of the Concurrent Legislative List in relation to the powers of National Assembly to make laws for the conduct of Election at the Local Government level. According to E.O Ogundare JSC, in the case of *Attorney General Abia State v. Attorney General of the Federation*:³⁷

The conduct of election is a procedure matter. The word "conduct" as defines in Black's law Dictionary means (as a verb) "to message", direct, lead, have directions, carry on, regulate, do business". And (as a noun) it means "personal behavior" deportment, mode of action any positive or negative act" from the definition, relevant to the word as used in the context of this case both conduct and procedure means one and the same thing

In the foregoing decision, the Court ascribed similar meaning to "conduct and procedure" as relate to the power of National Assembly. The attitude of Court is to discover what is the pith and substance of the legislation under attack. Thus, if on the view of the statute as whole, you find the substance of the legislation is within the express powers, then it is not invalidated if incidentally it affects matters, which are outside the authorized field.

We mention in this paper that the decision of the Court in the foregoing is a departure from ordinary literal meaning of the word "procedure". The Supreme Court of Nigerian, when faced with the interpretation of the words "any oil terminal" in line with grammatical ambiguity in law, has to determine whether the words "any" therein used in section 3 of Oil Terminal Act signifies in its application, no limit to a particular terminal as listed under section 7 of the Oil Terminal Due Act and section 11 (1) and (2) of Port Act. The Court, in *Texaco Panama Incor v. Shell P.D. Ltd*³⁸ *per* Ogundare JSC defined the word "any" as:

As to the meaning of the word "ANY" the authors of Black's law Dictionary 6th edition page 94 defined it as "some" "out of any", "an indefinite number", one indiscriminate of whatever kind or quality. *Federal Deposit Insurance Corporation v. Winton C.C. A Tenn*³⁹, 131 F2 780 782. Word "ANY" has a diversity of meaning and may be employed to indicate "all" or "every" as well as "some" or "one" an its meaning in a given statute depend upon the contexts and subject matter of the statute.

³⁵ *Bamayi v. Attorney General of the Federation* (2001) 7 SACQR 990.

³⁶ *Attorney General Abia State v. Attorney General of the Federation* (2002) 9 NSCQR 670 at 746.

³⁷ *Attorney General Abia State, supra*.

³⁸ *Texaco Panama Incor v. Shell P.D. Ltd* (2002) 9 NSCQR 359 383.

³⁹ *Federal Deposit Insurance Corporation v. Winton C.C.A Tenn* 131 F2 780, 782.

It is crystal clear from the foregoing statement that a word cannot sometime be independently taken to construe its true meaning, rather it must be taken *mutatis mutandis* with the context and subject matter of its usage or other section of the legislation or statute. The Supreme Court in this premise construes the words "any oil terminal" in section 3 of Oil Terminal Act, to mean an oil terminal which complies with provisions of the section of the Act. The Supreme Court added in *Texaco Panama Incor v. Shell P.D. Ltd*⁴⁰ that:

In construing word "ANY" in section 3 of the Oil Terminal Dues Act, it should generally depend on the setting or context and the subject matter of the Act, bearing in mind that the word "ANY" has diversity of meaning and can be employed to indicate "all" "easy" or "some". The word is also a determiner for example, "we don't accept just any student", meaning that only very good students are accepted. Any room will do meaning, no matter which, where or what room. It can also mean an unlimited or unmeasured amount or number, the question arises as to setting or context of the Act in which the word ANY is used, the court has determined the intention as expressed by the word used.

It is important to state that the use of several words that mean the same thing in law is one of the ways legal documents bring ambiguity. The style of using words with similar meaning in legal drafting may bring about verbosity. For example, the words "grant, sell, alienate and convey" simply mean to "convey". It is very common to find in legal documents that the words are used simultaneously. This may undoubtedly create a problem of interpretation and ought to be avoided.

The use of the words 'and' and 'or' is another crux of the matter. The word "and" in its ordinary sense of usage, is conjunctive but it may in certain circumstances have a disjunctive meaning in law. The word "or" when used, ordinarily is disjunctive but it may be used in certain circumstances to have conjunctive meaning and, therefore, as if it were the word "And". In *Ndoma Egba v. Chukwuogor*⁴¹ the Supreme Court said that: "this occurs in order to carry out the intention of the legislature... such interpretation may be quite useful in order to avoid absurd or impracticable result."

The foregoing has only highlighted the concept of language and law as it necessitates rules of construction *visa-vis* the constitutional function of the Court of Justice to find out the intention of the legislature by interpretation of the statute. The medium of law is language, the lawyer's success or failure depends largely on the skill and precision, with which he handles words, so also is the legislature in enactment of law. There is, therefore, the need to always use simple and clear language in law. That will assist the Court of Justice in interpreting the language of statute when the language is clear or unambiguous. It will assist the Court in finding the intention of the legislature without seeking for external aid outside legal documents. Accordingly, knowledge of law and assiduous training in its growing complexities is essential to any kind of success in the problem of language and law.

VI. Conclusion

It has been pointed out in this article that the judicial attitude to semantic and grammatical ambiguities in law has to do with finding a precise, fixed or proper meaning of legislation through interpretation of the statute under consideration. It is understood, therefore, that statute law is embodied on an authoritative form of written words and this literary expression is an essential part of the law itself. It is the duty of the Courts in general to apply the letter of the law, they are concerned with the spirit and reason of it only so far as the spirit and reason have succeeded in finding expression through the letter.⁴² This position has found credence in the words of the Supreme Court *per Onnoghen JSC* in the case of *G.E.C Ltd v. Duke*⁴³ that:

⁴⁰ *Texaco Panama supra*.

⁴¹ *Ndoma Egba v Chukwuogor* (2004) 2 SC 107 at 115.

⁴² *Salmond supra* note 26, p. 129.

⁴³ *G.E.C Ltd v Duke* (2007) 11 MJSC 15 at page 126.

It is settled law that the duty of the courts is simply to interpret the Law or Constitution as made by the legislature in the framers of the constitution. It is therefore not the constitutional responsibility of the judiciary to make laws neither can it amend the laws made by the legislature. The primary concern of the Courts is the ascertainment of the intention of the legislature or lawmakers. From this function, the court may not resile however ambiguous or difficult the application of the words of the law or Act may be, the Court is bound to place some meaning upon them. If the language is clear and explicit, the court must give effect to it, for in that case, the word of the statute speaks the intention of the legislature. As function is *jus dicere* not *jus dare*. The judge must not overrule the words of a statute

It is important, therefore, that in any legal instrument the ordinary simplistic way or style must be use. The need to avoid verbosity, archaic language ambiguous and mystic language is commended in law.⁴⁴ It is important to state that, in interpreting the language of statute or constitution, there is nothing like the principle of equity, fairness, social justice and equality in the conduct of judicial affairs as canons of interpretation, however, where the words/ language of statute are not clear, the Court has, to some extent, a discretion to interpret the statute in accordance with social purpose⁴⁵ and if there are two possible alternatives in the course of interpreting statute, the alternative construction that is consistent with the smooth running of the system shall prevail.⁴⁶ This is supported by the Supreme Court decision in the case of *Navy v. Lambert*,⁴⁷ where Tabai JSC pointed out:

In the interpretation of statute which, restrict the citizen's rights, any doubt, gap, duplicity or ambiguity as to the meaning of words used in the enactment should be resolved in favour of the person who would be liable to the penalty or a deprivation of his right.

It is my respective view that there is no much in a word, but there is so much in a word by way of definition, construction, amplification or restriction. Thus, where word is used in its ordinary plain meaning, to avoid problem of semantic and law, effect must be given to the word without resorting to any intrinsic or external aid.

⁴⁴ M.M. Akanbi, *supra* note 13, at 118.

⁴⁵ Salmon, 26 p 129.

⁴⁶ *ADH Ltd v AT Ltd* (n 35) and *Tukur v Government of Gongola State* (1989) 4 NWLR (pt 117) 5-7.

⁴⁷ *Navy v Lambert* (2007) 11 MJSC 1 at p. 12, 13.