LANGUAGE AS A TOOL OF ENGENDERING OR ENDANGERING THE JUSTICE SYSTEM IN NIGERIA

Theophilus Sunday Ogbor

Department of English and Literary Studies, Bingham University Karu,

Abstract

The interplay between language and law is a critical aspect of the Nigerian justice system, with far-reaching implications for delivering justice and protecting individual rights. This paper seeks to assess language as a tool for either fostering or jeopardizing the justice system in Nigeria. It also examined the connection between language and law, the interaction of local languages with English in the Nigerian legal system, and the broader implications of language in the Nigerian justice system. Using a qualitative approach with a critical assessment and reviews of relevant literature, the paper's findings revealed the vital role that language plays in shaping the accessibility, fairness, and overall effectiveness of the justice system in Nigeria. Additionally, it indicates that language barriers have created significant hindrances for many Nigerians, particularly those from rural or linguistically marginalized communities, who struggle to fully comprehend and engage with the legal system process. The study recommends, among other things, that the justice system should actively work to integrate local languages into legal proceedings, documentation, and legal education.

Keywords: Endangering, Engendering, Language, Legal Education, Nigeria Justice System

Introduction

The relationship between Language and law is profound, with language serving as the primary tool through which laws are created, interpreted, and enforced. This interplay is crucial because the effectiveness of legal systems primarily depends on the precision, clarity, and interpretation of legal language (Aluya & Olukemi, 2024). Laws are conveyed through language, making legal language an essential component of the legal system. The drafting of legal documents—such as statutes, contracts, court judgments, and more—requires careful selection of words and phrases to ensure that the intended meaning is clear and unambiguous. The language used in statutes must be precise and clear to avoid misinterpretation. Legislative drafters employ specific terminology and carefully structure sentences to convey the exact meaning of the law. Ambiguities in statutory language can lead to disputes over interpretation and inconsistent application of the law. For instance, the terms and conditions of a contract are legally binding, and any ambiguity in the language can lead to disputes (Ogunsiji & Aluya, 2022). Courts often examine the wording of

contracts to determine the intent of the parties and the legal obligations arising from the contract.

The interplay between language and law is central to the functioning of legal systems, as language is the medium through which laws are created, communicated, interpreted, and enforced (Solan, 1993). He stated that the effectiveness of the legal system depends on the clarity and precision of legal language, as well as the ability of legal professionals to interpret and apply the law correctly. The study of legal linguistics provides valuable insights into the challenges and opportunities in the use of language within the legal domain, highlighting the importance of careful language use in ensuring justice and fairness (Itari & Aluya, 2024). Language, being a fundamental means of communication, serves as a bridge between the legal framework and the people it aims to serve. Conversely, the law, as the cornerstone of a society's governance, relies heavily on language to articulate and enforce its principles (Alo, 2017). In the Nigerian context, where diverse languages and legal traditions coexist, the relationship between language and law can either engender or endanger the justice system, depending on its navigation.

Literature Review

Numerous studies have examined the nexus between language and law. The most current of these studies will be evaluated nevertheless, to demonstrate their applicability and relationship to the current study. Okaphor & Akachukwu (2014), sought to appraise language rights under Nigeria legislation. The findings of their study revealed that language right in Nigeria is not entirely in bad situation where there are no laws at all protecting the language rights of persons. It has been shown that there is no specific legislation in Nigeria on language rights. Apart from where a particular enactment makes a specific provision recognizing and protecting language rights of persons, there are other provisions where they can be implied.

Umeji's (2016) comparative study of Nigeria's legal frameworks and international human rights instruments highlights the gap between policy and practice. The study argues that language plays a crucial role in implementing gender-sensitive laws. This review underscores the need for linguistic and cultural contextualization in legal reform efforts. Michael (2016), examined the communication of an interpreter and fair trial under Nigerian criminal justice system. He argued in his paper that, English language is the official language of all the courts in Nigeria and if the language is not understood by the accused person standing trial in a criminal matter, an interpreter should be provided, failure upon that, their right to a fair trial would have been breached. Though the failure to provide an interpreter has always been treated as a matter of procedure and a conviction would not be disturbed on appeal except it can be shown that the failure to provide an interpreter led to miscarriage of justice.

Adeniran (2017) examines the role of local languages in the Nigerian legal system, highlighting the tension between the use of English as the official language of law and the need for linguistic diversity. The study reveals that the exclusion of local languages from legal proceedings can lead to misunderstandings and miscarriages of justice. This review underscores the

importance of considering the interplay between local languages and English in the Nigerian legal system.

Okoye's (2019) research examines the impact of language on women's access to justice in Nigeria. The study finds that gendered language barriers hinder women's participation in legal processes. This review highlights the need for language training for legal professionals to promote gender equality.

The reviewed studies mainly tackle language barriers and complex legal language, whereas the present study seeks to address the broader implications of language in the Nigerian justice system. It covers aspects such as legal education, legal professionals' training, and the potential marginalization of certain groups due to language-related issues.

Olusegun & Oyelade (2022), sought to access justice for Nigerian women, a veritable tool to achieving sustainable development. The study discovers that women have limited access to justice as a result of challenges plaguing Nigeria's justice system. The study concludes that urgent steps must be taken to solve these challenges so that the Sustainable Development Goals will stand a better chance of being achieved by 2030.

The use of complex, esoteric language in the legal realm can serve as a barrier to entry, effectively excluding those who lack the necessary linguistic and educational resources from fully participating in the justice system. This can lead to the marginalization of certain groups, undermining the principles of fairness and equal access to justice. The coexistence of these local languages and the English language in the legal domain creates a complex dynamic that can both engender and endanger the delivery of justice. Momodu (2019), asserted that on one hand, the prevalence of English as the dominant language of the courts, legal documentation, and legal education has facilitated a certain level of standardization and cohesion within the Nigerian justice system. The use of a common legal language has enabled the development of a shared jurisprudential framework, allowing for the effective dissemination of legal knowledge and the consistent application of the law across the country. However, the exclusive or disproportionate use of English in the legal system has also given rise to significant challenges (Edem & Aluya, 2019). For many Nigerians, particularly those from rural or linguistically marginalized communities, the English language remains a foreign tongue, presenting a significant barrier to their full participation and understanding of legal proceedings. This linguistic divide has led to a lack of access to justice, as individuals struggle to comprehend the nuances of the law, communicate effectively with legal professionals, and advocate for their rights (Adegbola, 2016).

Furthermore, the integration of local languages into the legal framework is not without its own set of complexities. Osasona pointed out that with over 500 languages spoken across the country, the task of accommodating and prioritizing the linguistic needs of diverse communities has been daunting. Additionally, the lack of standardized legal terminologies in many local languages has hampered the effective translation and interpretation of legal

concepts, potentially leading to inconsistencies or misunderstandings (Osasona, 2016).

Omoniyi (2018), argued that the dominance of English in the legal system has also exacerbated pre-existing social and economic inequalities, as individuals with limited proficiency in the language are at a disadvantage when navigating the complexities of the justice system. This, in turn, has undermined the principles of fairness and equal access to justice, as certain groups are effectively excluded from the legal process.

To mitigate these challenges, Omoniyi observed that the Nigerian legal system has, in recent years, sought to incorporate elements of local languages into its operations. The provision of translation and interpretation services in courtrooms, the use of local languages in legal education, and the development of legal terminologies in indigenous languages have all been attempts to bridge the linguistic divide and make the justice system more inclusive (Omoniyi, 2018).

The Justice System in Nigeria

According to Alemika (2013), the justice system in Nigeria is a complex framework that includes traditional, civil, and Islamic law. It is designed to ensure the enforcement of laws, protection of human rights, and the provision of justice through a combination of the Constitution, statutory laws, customary laws, and religious laws. The Nigerian judiciary is an independent arm of government, as outlined in the 1999 Constitution of the Federal Republic of Nigeria (as amended). It is responsible for interpreting laws, protecting rights, and ensuring justice. The judiciary is divided into several levels: the Supreme Court, which is the highest court in Nigeria, with the final appellate jurisdiction. It hears cases from the Court of Appeal and has the power to determine the constitutionality of laws and acts of government; the Court of Appeal, the second-highest court, which hears appeals from lower courts. It has jurisdiction over civil and criminal matters and issues related to elections; and the Federal High Court which deals with matters related to federal law, including revenue, taxation, and trade disputes. Each state equally has its own high court, which handles civil and criminal cases within the state's jurisdiction (Aluya & Edem, 2023). The Customary and Sharia Courts deal with cases based on customary law and Islamic law, respectively. Their jurisdiction varies by region, reflecting the diverse cultural and religious practices in Nigeria.

Customary law is an integral part of the Nigerian legal system, particularly in rural areas. It is based on the traditions and customs of various ethnic groups and covers matters such as marriage, inheritance, and land disputes. Customary law is recognized under the Constitution, but it must not conflict with statutory law or principles of natural justice. Similarly, in some northern states, Sharia law is applied, particularly in matters of personal status, such as marriage, divorce, and inheritance. Sharia law is implemented through a parallel system of courts, known as Sharia Courts, which exist alongside the regular judicial system. Sharia law in Nigeria is limited to Muslim citizens and applies only in states that have adopted it as part of their legal system.

As clearly stated by The Federal Ministry of Justice, Nigeria (2020), despite its comprehensive structure, the Nigerian justice system faces several significant challenges. Although the judiciary is constitutionally independent, there have been concerns about undue influence from the executive branch. This has sometimes resulted in accusations of politically motivated decisions, undermining public confidence in the judiciary. Corruption is a pervasive issue in Nigeria, and the judiciary is not immune. Instances of bribery and other forms of corruption have been reported, leading to questions about the integrity of judicial decisions. There is also the problem of delays in justice delivery. The Nigerian judicial system is often criticized for delays in delivering justice. Cases can take years to resolve, leading to a backlog of cases and prolonged pretrial detention for many accused persons. These delays are due to several factors, including insufficient funding, lack of infrastructure, and procedural inefficiencies.

Akinseye-George (2010) noted that apart from the fact that access to justice is limited for many Nigerians, particularly those in rural areas and the economically disadvantaged, legal representation is often expensive, and there are insufficient legal aid services to assist those who cannot afford private counsel. He further observed that the coexistence of multiple legal systems (common law, customary law, and Sharia law) can create confusion and inconsistency in the application of justice. Human Rights Watch, (2019) revealed that human rights violations, including unlawful detention, police brutality, and inadequate prison conditions, are ongoing concerns in Nigeria and that the justice system has been criticized for not doing enough to protect citizens' rights and hold violators accountable. The Nigerian government has faced pressure both domestically and internationally to reform its justice system to better safeguard human rights.

Language as a Tool of Engendering Justice System in Nigeria

Adegbola (2016), argued that the effective translation and interpretation of legal proceedings, the use of plain language in legal documents, and the provision of language assistance services can all contribute to the creation of a more inclusive and accessible justice system. By addressing the linguistic challenges faced by litigants and defendants, the justice system can work towards ensuring that all individuals, regardless of their linguistic background, have an equal opportunity to understand and participate in the legal process. Beyond the mere encoding of the law, Rackley (2020), stated that language also plays a critical role in the interpretation and application of legal principles. Judges, lawyers, and other legal professionals must engage in a deep analysis of the language used in legal texts, parsing the nuances of words, phrases, and contextual cues to determine the intended meaning and appropriate application of the law. This interpretive process is particularly crucial in cases where the language of the law is ambiguous or open to multiple interpretations (Rackley, 2020).

The influence of language on the law extends beyond the courtroom, shaping the very structure and organization of the legal system. The choice of language, or combination of languages, used in legal proceedings,

documentation, and education can have significant implications for access to justice and the fair representation of diverse linguistic communities (Scarpa & Jan, 2019, Aluya, 2023).

The law can also regulate the use of language, as seen in the regulation of defamation, hate speech, and other forms of linguistic expressions that are deemed harmful or contrary to the public interest. Legal language carries authority because it comes from institutions that hold power, such as legislatures, courts, and government agencies. The way laws are written and enforced can have significant implications for individuals and society. For example, legal definitions of terms like "marriage," "citizenship," and "property" can have far-reaching effects on people's lives. Legal language is a means of social control, as it regulates behavior by establishing what is lawful and unlawful. The use of legal terminology can also influence how society perceives certain actions or behaviors. For example, the legal distinction between "murder" and "manslaughter" reflects different levels of culpability and intent, shaping public perceptions of these crimes. Austin J. (1962). Based on the distinctive features of the legal language characterized by obscured expressions and circumlocutions, long-winded construction and tortuous syntax, apparent meaningless repetitions and archaisms as well as the linguistic diversities in Nigeria, it would, however, appear that the language of law, by default is programmed to endanger justice system in Nigeria except conscious interventions are made.

Language as a Tool of Endangering the Justice System in Nigeria

One of the key challenges facing the Nigerian justice system according to Momodu (2019), is the linguistic diversity of the country. Nigeria is home to over 500 languages, with the three major languages being Hausa, Igbo, and Yoruba. This linguistic diversity can create significant barriers in the legal system, particularly for individuals who do not have a strong command of the dominant languages used in the courtroom, such as English or pidgin English. The inability to effectively communicate with legal professionals or understand court proceedings can profoundly impact an individual's ability to access justice and exercise their legal rights (Momodu, 2019). In furtherance to this argument, Ehonwa, G. (2020) asserted that Nigeria is a linguistically diverse country with over 500 languages spoken, noting that the official language of the judiciary is English, but many Nigerians are more proficient in their indigenous languages. Furthermore, the complexity of legal language itself can further exacerbate the challenges faced by litigants and defendants in the justice system. The specialized terminology and jargon used in legal documents and court proceedings can be intimidating and inaccessible to the average Nigerian citizen, who may not have the necessary legal expertise or education to comprehend the nuances of the law. This linguistic barrier can lead to a lack of understanding of the legal process, undermining the principles of fairness and due process (Osasona, 2017).

The misuse or neglect of language in the justice system can endanger the principles of justice and lead to the marginalization of certain groups. For instance, Omoniyi (2018), argued that the exclusive use of English or the failure to provide adequate translation services in courtrooms can effectively exclude non-English-speaking individuals from the legal proceedings, denying them their right to a fair trial. Similarly, the use of language that perpetuates biases, stereotypes, or discrimination can undermine the impartiality of the justice system and compromise the delivery of just outcomes (Omoniyi, 2018).

The importance of language in the justice system is particularly evident in the context of legal education and the training of legal professionals. The language used in legal education, from textbooks to classroom discussions, can shape the mindset and perspectives of future lawyers, judges, and legal practitioners. If the educational system fails to adequately address the linguistic diversity of the country and the importance of language in the legal process s, it can perpetuate a legal culture that is disconnected from the realities of the people it serves.

The Broader Implications of Language in the Nigerian Justice System.

The role of language in the Nigerian justice system extends far beyond the mere execution of legal proceedings and documentation. Language, in its varied dimensions, has a profound impact on the broader societal and political implications of the country's judicial processes. The implications of this language-based exclusion are far-reaching. Babalola (2010), stated that individuals who struggle to navigate the legal system due to linguistic barriers were less likely to seek legal recourse for their grievances, potentially leading to a systemic underrepresentation of certain socioeconomic or ethnic groups within the judicial process. This, in turn, has perpetuated existing power structures and social inequalities, as the legal system has failed to adequately address the concerns and needs of marginalized communities (Babalola, 2010). At the heart of this issue lies the fundamental question of access to justice. Alabi (2012) asserts that the dominance of the English language, which serves as the primary language of the courts, legal education, and legal literature, creates a significant barrier for many Nigerians who are more comfortable communicating in their local languages. This linguistic divide has effectively excluded a substantial portion of the population from fully engaging with and understanding the legal system, undermining the principles of equality and fairness before the law (Alabi, 2012). The language divide in the justice system also has exacerbated regional and ethnic tensions within the country. As different linguistic and cultural groups struggle to have their voices heard and their interests represented within the legal framework, the potential for conflict and divisiveness has in turn increased. This has undermined the cohesion and unity of the Nigerian state, posing a significant challenge to the country's longterm social and political stability (Emezie, 2014).

Nwabueze, B.O. (2016) suggested that the Nigerian Constitution provides the foundation for the rule of law and protection of fundamental rights. Ensuring these provisions are equitably enforced is critical for justice. However, Nwabueze observed that many laws in Nigeria are outdated and do not reflect contemporary social economic, and political realities and that this misalignment can lead to the application of laws that are no longer relevant or fair, thereby endangering justice. Furthermore, Nwabueze noted that legal provisions that are ambiguous or overtly complex can be difficult for judges

and lawyers to interpret consistently, leading to varied and potentially unjust outcome. On the features of legal language, Crystal and Davy (1969), Bhatia (1993) and Tiersma (1999) implicated the lexicon of legal language as being filled with technical vocabulary and archaism, outdated words and expressions which has made it inaccessible to those unfamiliar with the legal system, leading to confusion and misunderstandings.

Police Investigations and Interrogations

The language used during police investigations and interrogations plays a crucial role in determining the accuracy of information gathered and the treatment of suspects (Berk-Seligson, 2009). In Nigeria, where multiple languages are spoken, language barriers can lead to misunderstandings and miscommunications, potentially resulting in wrongful convictions or miscarriages of justice (Okere, 2011).

Research has shown that the use of a suspect's native language during interrogations can improve the accuracy of information gathered and reduce the risk of false confessions (Russell, 2016). Conversely, the use of a language that is not familiar to the suspect can lead to confusion, anxiety, and decreased comprehension, potentially resulting in inaccurate or unreliable information (Shuy, 1998). Furthermore, language can also impact the treatment of suspects during police investigations and interrogations. For instance, the use of aggressive or confrontational language can create a hostile environment, leading to increased stress and anxiety for the suspect (Leo, 2008). This can result in suspects becoming more susceptible to suggestion or coercion, potentially leading to false confessions or inaccurate information (Gudjonsson, 2003). The language used during police investigations and interrogations is a critical factor in determining the accuracy of information gathered and the treatment of suspects. Ensuring that suspects are interviewed in a language they understand, and that language is used in a clear and respectful manner, is essential for promoting justice and preventing miscarriages of justice.

Legal Drafting and Interpretation

The language used in legal drafting and interpretation plays a crucial role in shaping the justice system. Ambiguous or unclear language can lead to misinterpretation, confusion, and ultimately, miscarriages of justice (Crystal, 2011). In Nigeria, where multiple languages are spoken, the use of complex legal language can exacerbate existing inequalities and limit access to justice for marginalized communities (Okere, 2011). Clear and concise language, on the other hand, can promote justice by ensuring that laws are understood and applied consistently (Bhatia, 1993). Effective legal drafting and interpretation require consideration of the social, cultural, and linguistic context in which laws will be applied (Gibbons, 2003).

In Nigeria, efforts to promote plain language drafting and interpretation can help address issues of accessibility and inequality. This includes using simple language, avoiding technical jargon, and providing clear definitions and explanations (Williams, 2009). Furthermore, involving diverse stakeholders in the legal drafting process can help ensure that laws are inclusive and responsive to the needs of all citizens (Kurzon, 2001). By prioritizing clear and inclusive

language, Nigeria can promote a more just and equitable legal system. Recommendation

Recommendations

In light of the findings, the paper recommends thus:

- The expansion of the use of local languages in the justice system since the use of local languages in legal system has created significant barriers for many citizens, particularly those from linguistically marginalized communities.
- ii. Investment in language-inclusive legal education and training to ensure that legal professionals, including judges, lawyers, and court staff, have the necessary language skills to effectively communicate with and serve all segments of the population should be a top priority.
- iii. Establishing mechanisms for continuous stakeholder engagement and feedback to create a more inclusive and responsive justice system. There should be established channels for regular dialogue and feedback from diverse linguistic communities. This could involve the creation of language-focused advisory boards, the organization of community forums and consultations, and the implementation of grievance redressal mechanisms that are accessible to individuals regardless of their language proficiency. By actively incorporating the perspectives and experiences of all linguistic groups, the justice system can work to address the unique challenges they face.
- iv. Judges must articulate their reasoning clearly to ensure that the judgment is understood and can be applied in future cases. Legal precedents, which are based judicial on language, play a crucial role in common law systems. By prioritizing clear and inclusive language, Nigeria can promote a more just and equitable legal system. By prioritizing clear and inclusive language, Nigeria can promote a more just and equitable legal system. Recommendation

Conclusion

The intricate relationship between language and law in the Nigerian justice system is a complex issue that has far-reaching implications for the country's social, political, and economic landscape. The findings presented in this paper underscores the critical role that language plays in shaping the accessibility, fairness, and overall effectiveness of the legal system. At the core of this issue is the tension between the dominance of the English language, which serves as the primary language of the courts, legal documentation, and legal education, and the rich diversity of over 500 local languages spoken across Nigeria. While the use of a common legal language has facilitated a certain level of standardization and cohesion within the justice system, it has also created significant barriers for many Nigerians, particularly those from rural or linguistically marginalized communities, who struggle to fully comprehend and engage with the legal process.

The exclusion of local languages from the legal framework has exacerbated pre-existing social and economic inequalities, as individuals with limited proficiency in English are at a distinct disadvantage when navigating

the complexities of the justice system. This, in turn, has undermined the principles of fairness and equal access to justice, as certain groups are effectively marginalized from the legal process.

To address these myriads of problems, the justice system should actively work to integrate local languages into legal proceedings, documentation, and legal education. This could involve providing professional translation and interpretation services, developing standardized legal terminologies in indigenous dialects, and mandating the use of local languages in certain legal contexts. Investment in language-inclusive legal education and training to ensure that legal professionals, including judges, lawyers, and court staff, have the necessary language skills to effectively communicate with and serve all segments of the population should be a top priority; Establishing mechanisms for continuous stakeholder engagement and feedback to create a more inclusive and responsive justice system. There should be established channels for regular dialogue and feedback from diverse linguistic communities. This could involve the creation of language-focused advisory boards, the organization of community forums and consultations, and the implementation of grievance redressal mechanisms that are accessible to individuals regardless of their language proficiency. By actively incorporating the perspectives and experiences of all linguistic groups, the justice system can work to address the unique challenges they face. Judges must articulate their reasoning clearly to ensure that the judgment is understood and can be applied in future cases. Legal precedents, which are based judicial on language, play a crucial role in common law systems. By prioritizing clear and inclusive language, Nigeria can promote a more just and equitable legal system. By prioritizing clear and inclusive language, Nigeria can promote a more just and equitable legal system.

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