



LEXICAL ARCHAISM IN PUBLIC LEGAL TEXT: A STUDY OF TWO NIGERIAN STATUTES

*Emmanuel C. Sharndama and Blessing Ijem

Federal University Wukari, Faculty of Humanities, Management and Social Sciences, Department of English and Literary Studies, Taraba State of Nigeria

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ABSTRACT

This paper is a corpus based analysis of lexical archaism in Public Legal Texts. The study aims at uncovering the incidences of lexical archaism in the selected Nigerian statutes. Incidences of lexical archaism were identified and discussed with emphasis on their effects on the readers. The incidences were illustrated by presenting portions of the text in which they occurred. The study therefore was purely descriptive and qualitative as no attempt was made to quantify the incidences. The findings, however, revealed that compound adverbs and prepositions are the commonest form of lexical archaism noted. Others include the use of doublets, and the use of the modal "shall." Latin and French terms as terms of arts were also noted as forms of archaic vocabularies. The study recommends that though lawyers/legal specialists use archaic lexical items on purpose, the study recommends that the use be minimised so that the public will have better understanding public texts.

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INTRODUCTION

Lexis refers to the entire stock of words or simply put, compendium of words of a language. Ubahakwe & Dele (2004) citing Ellis (1980) assert that each society has its culture and the nature of the lexical items it uses. Looking at the different spheres of human activities, the nature of the lexical items is bound to differ. In other words, there exist specialized lexical items that are used when talking about something or carrying out specific activity. The field of law is dynamic as it encompasses different activities. The language of the law is very distinctive and the lexical and syntactic patterns owe much to the history of the English legal system. Its conservative nature is linked to the need for unambiguous language that has already been tried and tested (Thorne, 1997). Tiersma (1999), similarly attributed the distinctive nature of the language of law to the different contacts it had with some languages at a point in history. The contacts include the impact of the Celt, the Danes, the Norway conquest of 1066, the resurgence of English and the transportation of the English legal system by British to her colonies. Crystal and Davy (1987) also opined that language of the law during the course of development has to rub shoulders with and sometimes give way to both Latin and French. Legal language is the domain of specialized occupation and the intended audience is the experts in the field. Because the same kind of legal transaction occurs regularly, linguistic formula has been developed (Thorne 1997). Philips (1998) opines that legal profession like others have linguistic features that occur regularly. She further points out that legal profession like others is interested in identifying the language forms, which help to achieve desired ends. Legal texts such as Codes, Statutes, Contracts, Regulations etc are examples of legal texts. Legal texts are addressed to specialist audience who use them in order to achieve desired ends. Public legal documents, are those laid for the public which legal specialists (lawyers) use in the course of their works. Kurzon (1989), observes that these documents have frozen styles because they are not written a fresh anytime the lawyer has to draw up. Anything amounting to law in certain contexts has been set.

Appropriate portions are selected anytime to meet up specific purposes. Typical examples are Wills and Contracts. These documents are typically referred to as form books. They are created within legal context to determine legal rights. The 1999 constitution of the Federal Republic of Nigeria and the Criminal Code Act (CAP 77), the laws of the federation are examples of such documents. These are among documents that Nigerian legal specialists always make reference to in the course of their works. This study is geared towards examining lexical archaism in the two documents and their implications for comprehension by the lay audience.

The Concept of Archaism and Lexical Archaism

Archaism in general sense refers to the use of old-fashion language, or antiquated style. These are forms of language that are not current. Archaism can be either in spoken or written form. The use of Archaism by legal specialist is on purpose, that is, it is deliberate and geared towards achieving specific purpose. Archaism is commonly found in legal texts, religious texts, poetry and even sciences. They are mostly words that have been tested, tried and are used within a given field(s). The King James Version of the Bible and Shakespearian plays are typical examples. Archaism is a form or use of language which is absolute or belongs recognizably to an older stage of language. Legal professionals especially strive to preserve archaic words as they are somehow more precise than ordinary language. Tiersma (1999) in Sharndama (2008), however, opines that it is not defensible. This implies that there are everyday words or languages that are precise in legal context. Archaism in legal texts is mostly found in the lexical category. Some of the occurrences of archaism in legal texts are attributed to many contacts of English legal system with many languages. There are some archaic lexical items that are traceable today to Latin and French. Bouharaovi (2003), points out that it was inevitable for English law to escape the influence of Latin which was supported by the power of the Roman Church over Europe at that time, and also its wide spread as the language of learning and literature. The lexicon of legal English in the words of Bouharaovi is considerably made of archaic legal terms. Citing Tiersma (1999) Bouharaovi (2003) maintains that legal language often strive towards greater formality, it naturally gravitates towards archaism language.

*Corresponding author: Emmanuel C. Sharndama

Federal University Wukari, Faculty of Humanities, Management and Social Sciences, Department of English and Literary Studies, Taraba State of Nigeria.

Archaism tends to give flavour of formality to the language to which they belong. The legal system of Nigeria is just another version of English legal system. Britain transported the English legal system to most of her colonies. Most of the English legal systems were adopted in Nigeria directly or with slight modification. Look at an example, “ - -- Or in council” when used in connection with the true ordinance and statute include any relevant order in council of the United Kingdom applicable to Nigeria” In Nigerian courts today, Statutes, Contracts and Wills which have most of these tested archaic words are always quoted by lawyers to support their claims in the course of their works. The use of antiquated terminologies is also prompted by the need to avoid changes and manipulations. Crystal and Davy (1987) opine that what has been tested and found adequate is best not altered. Thorne (1997), in the same vein, points out that archaic lexis-like *hereafter* and collocations reflecting the influence of both French and Latin on legal language and the need to be all-inclusive are reasons for using archaic vocabulary in legal documents. Archaism is also said to have survived in legal texts today as a result of the need to preserve archaic lexis because they add formality, precision and all inclusive to legal texts. Lawyers prefer archaic lexis over the everyday ones because they have been tested and spanned a long history. This study attempts an investigation of such words in two Nigeria Statutes- the 1999 Constitution of the Federal Republic of Nigeria and the Criminal Code Act CAP 77, laws of the Federation.

Aim and Objectives

This study aims at examining lexical archaism in two selected public statutes of Nigeria. The specific objectives are:

- i Identify lexical items that are deemed archaic.
- ii To highlight the effects of lexical archaism on the public as the target audience.
- iii To make appropriate recommendations as to whether everyday vocabulary can substitute them

Method of Investigation

The study is a corpus based analysis. The corpus for the study is made up of two Nigerian Statutes. The 1999 constitution of the Federal Republic of Nigeria and the Criminal Code Act CAP 77, laws of the federation, 1990. These texts were selected based on accessibility-the ease with which the researcher obtains them. In addition to accessibility, representativeness was also considered-the extent to which the selected texts represent public legal texts. Descriptive approach was used to discuss incidences of archaism in the two documents. Portions of texts were quoted to support claims.

Analysis

This section presents the analysis of archaism in the two selected Nigerian Statutes. The aim is to identify the varieties of archaism in the selected statutes, establish the fact that they are typical of public legal texts and highlight how they function as characteristics of public legal texts.

Use of Doublets

These are words that collocate and in addition are synonymous. The use of these words according to Tiersma (1999) may lead to ambiguity if they are interpreted individually. The analysis of the two texts showed that doublets are specialized features that add formality to legal texts. Doublets are related words that are used as compounds, Examples from the two statutes are:

*The security and Welfare of the people shall be the primary purpose of government. (Chapter II, paragraph 2b of the 1999 constitution of the Federal Republic of Nigeria).

*Sovereignty belongs to the people of Nigeria from which government through this constitution drivers all its power and Authority.

*And to provide for a constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of freedom, equality and justice.

*For the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts- These words should therefore be used with care. Bouharoui (2003), is of the view that legal craftsmen nowadays, do not use such pairing words as a distinction from simple style of expression but it is merely a tradition adopted when drafting legal documents.

The use of compound adverbs and prepositions

This is a feature that characterizes the two texts. Most of them are used for making references within and sometimes outside a text. Like other forms of archaic lexis, the use of this type of combination adds formality to the language of law. The combination of adverbs and prepositions especially in the spoken forms makes the language sound different from ordinary languages. Though these are found in literary works and Bible version especially King James, the way the lawyers use them to lay down the law or defend the law seem to be constant and reflect the use of jargons in law.

Examples are

The provisions of this constitution in part 1 of chapter viii hereof shall, in relation to the Federal Capital Territory Abuja, have effect in the manner set out hereunder (1999, Constitution). Each state of Nigeria named in the first column of part of the first schedule of the constitution shall consist of the area shown opposite thereto in the second column of that schedule. (1999 Constitution) Any persons who has been tried, and convicted or acquitted on a charge of any of the offences herein before--- when he knows that any person intends to commit treason to give information there of Provided always that nothing herein before set for the shall authorize any of the persons herein after named to carry a letter or ... (Criminal Code Art CAP. 77 laws of the Federation 1990)

The Use of the Modal Auxiliary ‘Shall’

The common functions of *shall* is synonymous with Will-express futurity. Though the persons preceding them differ the two modal verbs commonly express future time/events. *Shall* is preferred in British English when I and We precede it. *Will on the other hand is preferred* when other personal pronouns are used. In legal usage, *shall* is used to express obligation or duty. As found in the two Statutes, *shall* donate obligation and responsibility. When followed by the negative *not*, it donates prohibition, and unlawful act which are always followed by the consequences. Study the example below;

The judicial powers vested in accordance with the foregoing provisions of this section. *Shall* extend, notwithstanding anything to the contrary in this constitution to all inherent powers and sanctions of a court of law. *Shall* extend to all matters between persons, or between government or authority and to any person in Nigeria. (1999 Constitution of Nigeria paragraph 6) Or to commit breaches of discipline *shall* be guilty (consequence of action or committed felony) *Shall* does not only express obligation and responsibility as stated earlier. It is also used to state strong consequence or conditions. *Shall* used with negative *not* to express prohibition or deterrent.

For example,

... *shall not, except as otherwise provided by this constitution.*

Shall not, as from the date when this section comes to force.

The use of French and Latin terms

The use of Latin and French terms in legal documents is one of the antiquated elements of legal language. Crystal and Davy (1987), describe legal language as conservative and attributed the

conservatism to the reliance on forms established for long in the past and the reluctance to take risk by adopting new and untested modes of expression. Tiersma (1999), similarly opines that the impact of the Celt, the Danes, the Norman conquest of 1066, the resurgence of English and the transportation of the English legal language by Britain to all her colonies contributed a lot to the present day nature of legal language. Nigeria as one of the countries colonized by Britain has witnessed many impacts of the English legal language on the traditional legal forms or systems. The study of the two texts has shown that Latin and French terms are among the features that make legal language formal.

Latin Terms

Some of the Latin terms that survived to this day and are commonly used in legal texts are:

Evidence: As in evidence on charge of perjury “ A person cannot be convicted of committing perjury, or of counseling or procuring the commission of perjury upon the in corroborated testimony of one witness.

Bona-fide: As in *bona-fide claim of right*.

A person is not criminally responsible as for an offence relating to property for an act done or omitted to be done by him with respect to any property in the exercise of an honest claim of right and without intention to defraud.

Contract: As in anyone who maliciously breaks a *contract* of service knowing or having reasonable cause to believe that
(Criminal Code Act CAP. 77 Laws of the Federation in 1990).

Clerk: As in there shall be a *clerk* to the national Assembly and such other staff as may be prescribed by an Act of the national assembly and ...

French Terms

After Law Latin, French law took over and French became official language of the law. There are many French terms that survived to this day and are used frequently in legal documents. Some of them today include *scheme, Attorney-General, terms, condition, proposal council, government etc. schedule* and *Attorney general* featured frequently in the two texts. Schedule which as a term is used to refer to categorization of legal issues. Attorney General represents the highest rank in legal profession.

Examples of French terms that survived to this day are:

The system of local *Government* by democratically elected local government *council* is made this constitution guaranteed
(1999 Constitution Paragraph 7).

Proposal for creation of the state is thereafter approved in a referendum by at least two-third majority of the people of the area where the demand creation of the state originated (1999 Constitution Paragraph 8). The *terms and conditions* of service of the staff of the code of Conduct Bureau shall be the same as ...

Technical terms/terms of Arts

Tiersma (1999), describes technical terms or terms of arts as heaving exact meaning, used by a particular trade or profession, and promotes brevity of expression and fulfils an important communicative functions. Technical terms as restricted to legal profession are used in legal contexts. These words are not conservative but are regarded as archaic because they have spanned a long history in legal profession. Examples are *Statutes, jurisdiction, judicial constitution, felony, treason, proceeding, imprisonment, guilty, summon offender, defendant, accused etc.* The words are subject- specific as they are hardly used outside legal field. A lay man may not find it easy to interpret a text that these words occur in.

Conclusion

The study was based on two Nigerian statutes. The analysis carried out the two statutes revealed that there some archaic lexical items that are frequently used for drawing public statutes. These archaic lexical items have been tested and tried .Legal specialist therefore are already familiar with them and select them on purpose Doublets, compound adverbs and compound prepositions are very common lexical archaisms that survived to this day and are constantly used when lawyers are drawing statutes. Their uses as many scholars believe add formality to the language they occur in. Lexical archaism as the study revealed is attributed to some changes and developments in legal history especially English legal system and the role of Britain in their spread to her colonies. Nigeria as one of the colonies of Britain cannot be an exception.

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