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XENOPHOBIA AND NIGERIA-SOUTH AFRICA RELATIONS: A CRITICAL ANALYSIS

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ABSTRACT

Racism is perhaps the most serious problem affecting the welfare of Nigerian migrants in South Africa today. Racism is not just about personal prejudice but also about institutional processes, in May 2008 South Africans made international headlines by embarking on a hitherto unprecedented campaign of violence against migrants. This violence formed part of a wider pattern of intolerance and antagonism against Nigerian migrants in post-Apartheid South Africa. The primary objective of this paper is to critically review the implications of Xenophobia on Nigerian-South Africa relation, at the heart of this prejudice lies socio-economic deprivation this paper seeks to examine the implications of xenophobia on Nigerian South Africa relations. The paper adopts the frustration aggression hypothesis as its theoretical framework. Explaining the character of post-apartheid South Africans "The theory posit that occurrence of aggressive behavior always presupposes the existence of frustration and contrariwise that the existence of frustration always leads to some form of aggression, the underlying causes of xenophobia are complex and varied. Xenophobia has to do with contemptuous of that which is foreign, especially of strangers or of people from different countries or cultures. This paper examines core issues of racial intolerance, dislike for foreigners particularly Nigerians in South Africa and its implications on the relationship that exist between these two countries. The study adopted secondary methodology, content analysis was used to critically review journals, articles, newspapers and policy briefs to discuss aspects of

Nigeria-South Africa relations. This paper discovered that South Africa-Nigeria relations will suffer serious setbacks due to xenophobic attacks and equally recommends that South Africa as a matter of urgency review its migrant policy and embark on massive re-orientation of its populace on the international convention on migration.

Keywords: Migration, Nigeria-South Africa Relation, Xenophobia

Introduction

Racism is perhaps the most serious fundamental problem affecting the welfare of people referred to as migrants or black people in South Africa today. Racism is not just about personal racial discrimination but also about institutional processes, ways of thinking and ways of doing things that are deeply ingrained in South African culture, In May 2008 South Africans made international headlines by embarking on a hitherto unprecedented campaign of violence against African migrants. This violence formed part of a wider pattern of intolerance and antagonism against African migrants in post-Apartheid South Africa. At the heart of this prejudice lies socio-economic deprivation (Sichone, 2008).

The underlying causes of xenophobia are complex and varied. Xenophobia has to do with contemptuous of that which is foreign, especially of strangers or of people from different countries or cultures. Unemployment and mounting poverty among South Africans at the bottom of the economic ladder have provoked serious competition between educated and experienced migrants. South Africa's long track-record of violence Xenophobia manifests in different regions and communities, with devastating effects on the affected nationals, Nigerians living in South Africa have been objects of severe attacks and assault as a result of this xenophobic attitude (Orji 2001).

It is against this background that this study Xenophobic attack on Nigerian-South Africa relation, seeks to investigate the attacks against Nigerians in South Africa. The methodology is basically qualitative with the use of

secondary sources such as Books, Journals, Newspapers and internet sources and the South African migration policy report (SAMP) .the study adopted the frustration aggression theory as espoused by Dollard et: al (1939) and also attempt to answer the following questions

i. What is the cause of Xenophobia in South Africa?
ii. Why are Nigerians attacked in South-Africa?
iii. How has Xenophobia affected Nigerian-South Africa relation?
iv. What has been Nigeria response to Xenophobic attack?
v. What can be done to address this problem?

1. Conceptual Review, Xenophobia

Crush (2008) states that exclusion, based on the idea of being 'non-native' has existed in Africa since independence (and was however codified during colonialism). Bounded ideas of citizenship have existed in Africa for two centuries, and contemporary xenophobia can be seen as one of the most recent manifestations of this feature. South Africa is extremely high with regular attacks on foreign nationals. Xenophobia in South Africa is perceived to have significantly increased after the installation of a democratic government in1994 (Shinsana, 2008).

A review in 2001 by Wicker, explained xenophobia as one among several possible forms of reaction generated by anomic situation in the societies of modern states (as cited in Sichone, 2008:257). According to South Africa Human Right Commission (SAHRC), xenophobia can be defined as the "deep dislike of non-nationals by nationals of a recipient state" (Bekker & Carlton, 2010:127). Indeed its manifestation is abusive and violates the constitution. (Nyamnjoh, 2006) argues that xenophobia in South Africa is not generally directed at all people perceived to be foreign nationals, but it is Africanized as Afrophobia with black African foreigners being the exclusive target for xenophobic attacks and violence. This assertion is evident in the way and manner South Africa has treated other African nations, including Nigeria. While (Landau, 2005) captures xenophobia as any form of discriminatory attitudes towards non-nationals, (Musuva, 2014:382) "xenophobia takes place within the context of crime, poverty,

inequality and unemployment". Be it as it may, one basic factor we need to note, is the fact that in South Africa for instance, xenophobia variably manifests itself through tribalism and ethnic superiority, racism and sexism pathologies.

According to a 2004 study published by the Southern Africa Migration Project (SAMP), The ANC government, in its attempts to overcome the divides of the past and build new forms of social cohesion embarked on an aggressive and inclusive nation-building project. One unanticipated by-product of this project has been a growth in intolerance towards outsiders. Violence against foreign citizens and African refugees has become increasingly common and communities are divided by hostility and suspicion (SAMP,2004).

Xenophobia is a dislike and/or fear of that which is unknown or different from one. It comes from the Greek words (xenos), meaning "stranger," "foreigner" and (Phobos and meaning "fear." The term is typically used to describe a fear or dislike for foreigners or of people significantly different from oneself, usually in the context of visibly differentiated minorities (Shinsana, 2008).

Indeed, the defeat of apartheid, the bastion of state-organized racism, a regime based explicitly on racist institutionalization, and its replacement by the "new South Africa" is indicative of how race and racism remain operational forces even after they have officially been declared dead. There is no consensus as to the current transitional state of affairs; for 20 years after African National Congress (ANC) took over from white nationalist/racist minority rule, there is considerable debate as to the direction, pace and nature of the post-apartheid regime (Trimikliniotis et al, 2008), the issue of xenophobic relations in contemporary South Africa is rooted in and conditioned by the structure of its apartheid economy, in that it mobilized all the social forces at its disposal to further the interest of the apartheid South African state.

Since the primary productive force in the apartheid South African economy was gold and the concomitant social relations of the mining process was by mostly black labour force, the industry attracted heavy migrant labour from Southern African regions notably Zimbabweans, Malawians and Mozambicans to the fast thriving industry. The immediate result of this was that, as the foreign labour force began to gain social mobility in the gold industry and the black South Africans continually subjected to apartheid, social tensions rose in the political economy of the state and has since remained a dominant part of the social relations of the post-apartheid South African state (Konanani and Odeku, 2013; Chidozie, 2014) Lester et al (2000) had argued that, while for the first time democratization in South Africa has translated to the poor having the same formal political power as the rich, the country remains one of the most unequal societies on earth. This gross inequality was engendered, according to him, by the fact that, when the country left apartheid behind, it did not leave behind the structures and processes which generated inequality. This problem continues to dominate contemporary discourse on the nature of post-apartheid economy in South Africa.

However, the deep economic cleavage in post-apartheid South Africa becomes pronounced when the rising influx of "other foreigners", especially Nigerians and their active role in the economy of South Africa comes under scrutiny. According to the report of an oral interview conducted in 2013, by Institute for Securities Studies (ISS), South Africa, estimated that there are about 13 million Nigerians living in South Africa while about 1 million South Africans are living in Nigeria. She argued that the implication of these figures is that, rather than portend an advantage for the South African economy, as many believe, there is instead a huge tension inthe South African economy which has resulted in xenophobia in recent times (Salifu, *oral interview*, 2013).

Nigeria is a major supplier of oil and gas to South Africa, while the country ships-in automobile, wine and paperboard to Nigeria among other products. This demonstrates that the opportunities binding these two countries are quite promising. Nigeria and South Africa must move now to nip the

situation, while it can still be managed. Nigeria as the big brother must take the lead. This paper interrogate the outburst of xenophobia in South Africa in relation to Nigeria foreign policy of Afro centrism, with special focus on the spate of both latent and manifest violence against Nigerians.

In effect, recent waves of xenophobic attacks on Nigerians living in South Africa bring into stark reality the flight of Nigerian business community in post apartheid South African economy. The attacks in which more than 116 persons were killed and thousands displaced attracted diplomatic intervention by the Nigerian state. Even though no Nigerian was killed in the wake of the current violent xenophobic attack, many lost their properties and their shops were looted; an indication of an orchestrated attack on the businesses of Nigerians in South Africa (Alli, 2008). To this end, the mass protest by South African women married to Nigerians in August 2013 on the street of Johannesburg under the aegis of the United Nigerian Wives in South Africa (UNWISA), umbrella organization established to protect their interest becomes very pertinent.

The group gathered to fight against alleged stigmatization, discrimination, and humiliation by government departments, agencies and officials of the South African state. The protest march which eventually ended at the city of Johannesburg home affairs office, threatened to continue in Nigeria with the intention of persuading the Nigerian government to react by stopping South African businesses operating in Nigeria(Vanguard Editorials, August 13 & 14, 2013:6 & 9cited in Oluyemi et;al). To be sure the Nigerian government chose to be cautious and observe proceedings before making official statement on the matter, since the event had occurred shortly after a major diplomatic strain in her relations with South Africa over yellow fever cards.

Dabiri Erewa (2017) complained that over 116 Nigerians were killed within two years in South Africa. She said 63% of the extrajudicial killings were carried out by the police. She expressed sadness over the criminalization of Nigerians by South Africans. The Presidential aide, said “The last time we came here was on a sad note, we are again on another sad note”, Erewa

pointed out that Nigerians who broke the law deserved to be punished but added that jungle justice should not be meted on them (Banjo, 2010).

It is against this back drop this paper intends to interrogate the causal-Effect of the diplomatic strain on South Africa-Nigeria Relations (Xenophobia) given the dynamism that governs the countries' diplomatic engagements in recent time. The paper is divided into five parts. Following the introduction, is the theoretical framework, the second part covers the conceptualization of Xenophobia the third part is historical overview of Nigeria-South Africa relations. The fourth section presents an empirical review of literature on Xenophobia in South Africa. The fifth part narrows the discussion to specific case study analysis of xenophobic attacks on Nigerians in South Africa. The last section concludes the work and proffers relevant policy recommendations.

2. Theoretical Framework

Frustration Aggression theory means– (a) that aggression is ***always*** based on frustration and (b) that frustration ***always*** leads to aggression – were far too general. These blames made frustration both a necessary and sufficient condition for aggression. Miller (1941) was quick to retract the latter part of the proposal. Quite obviously, frustrations do not cause hostile or aggressive outbursts by necessity. Potential outbursts may be effectively inhibited or may result in alternative actions, such as the pursuit of other, more readily available reinforces. Miller therefore rephrased the second part of the hypothesis to read:"Frustration produces instigations to a number of different types of response, one of which is an instigation to some form of aggression" According to this reformulation, frustration actuates motivational forces that are ***diffuse*** rather than specific to aggression. It is assigned the properties of a ***general*** drive. Such apparent moderation has not been applied to the first part of the original F-A hypothesis, however. Miller (1941) found the generality of this claim both defensible and useful. The revised F-A hypothesis thus maintains the following: (a) Frustration instigates behavior that may or may not be hostile

or aggressive. (b) Any hostile or aggressive behavior that occurs is caused by frustration. In other words, frustration is not a sufficient, but a necessary, condition for hostility and aggression (Zillmann, 1979It should be noted that the revised hypothesis retains a good deal of the original, sweeping claim. Because of its sweeping nature, the hypothesis proved most controversial (cf. Bandura & Walters, 1963a,b; Buss, 1961). After considering the more specific elements of frustration-aggression theory, we briefly review the main arguments in this controversy. In developing a comprehensive theory of aggression, Dollard et al. (1939) specified that the motivational strength toward aggression is a function of: (a) the reinforcement value of the frustrated goal response, (b) the degree of frustration of this goal response, and (c) the number of frustrated response sequences. The first two of these propositions are straightforward.

Aggression-potentiating annoyance is seen to increase with the incentive that could be obtained or the aversion that could be terminated by the blocked goal reaction. In relation to the case study, the South Africans believe that African immigrant in particular Nigerians are blocking the attainment of their economic goals. Furthermore, frustration can be incomplete, and thus a goal reaction can be partially completed. The third proposition is less direct, however. It is meaningful only if it is assumed that frustration-induced annoyance is cumulative. It is apparently held that 'aggressive drive' resulting from frustrations is somehow maintained within the organism and adds up to a level at which an otherwise tolerable frustration evokes aggression. Dollard et al. were, in fact, very explicit about the assumed additively of aggressive forces. They posited that the strength of a hostile or aggressive reaction depends in part on the "amount of residual instigation from previous or simultaneous frustrations". "Minor frustrations" they suggested, "add together to produce an aggressive response of greater strength than would normally be expected from the frustrating situation that appears to be the immediate antecedent of the aggression". Dollard et al. acknowledged the significance of the temporal aspect of this summation of 'aggressive drive' but quickly dismissed the issue by pointing out the lack of relevant data (Zillmann,1979).The

theoretical treatment of the inhibition of aggression is related to the time issue, in that the lack of immediate, overt manifestations of aggression is assumed to lead to prolonged covert consequences that eventually 'break out' in different form.

3. Nigeria's Foreign Policy Towards Apartheid South Africa

It is evident that since independence in 1960, Africa has remained at the centre piece of Nigeria's foreign policy. This nucleus of her foreign policy saw the country committing herself fanatically to decolonization of the African continent and eradication of racial discrimination and domination. According to Onouha (2008), the first opportunity for Nigeria to implement her foreign policy on anti-colonialism was provided by the Sharpeville massacre of 21st March 1960. During the incident, the white South African police attacked South African blacks protesting against racial discrimination and domination. This incident which led to the death of 72 blacks with many wounded, marked the beginning of Nigeria's diplomatic confrontations with South Africa.

Nigeria contributed to the liberation struggle through the application of two major strategies, which includes:

a) Resentment and condemnation of the apartheid policy
b) The use and sponsorship of sanction against the racist government;

The Tafawa Balewa government (1960-1966) upon assumption of office in October 1, 1960 was faced with overwhelming pressure from both domestic and external sources to institute measures to check South Africa's apartheid policies. Consequently, Nigeria banned the importation of South African goods into the country and was instrumental to the political and economic sanctions passed against the racist regime.

Furthermore, the ugly racial incidences in South Africa saw Nigeria spearheading the call for political and economic sanctions against the apartheid South Africa in the International Community, examples were the suspension of South Africa from the Commonwealth in 1961 and the

imposition of trade embargo under the auspices of the Organization of African Unity (O.A.U). Nigeria was instrumental to the call for complete isolation of South Africa by the International Community (Ebegbulem, 2013). There was need to force South Africa out of its racist policies. Gambari (1980) captured the view of the Leader of the opposition party at the Federal House of Parliament.

Chief Obafemi Awolowo; who condemned South Africa for the killings and called for a swift and effective action against South African interest in Nigeria. He maintained that Nigeria should force South Africa out of the Commonwealth because the Pretoria regime had displayed sadism and barbarism, which is rare in the annals of man. Onuoha (2008) noted the recognition and support accorded to the MPLA regime in Angola by Murtala Mohammed regime in 1975, which was another strategy to encircle the racist regime. It is on record that this recognition was extended immediately South Africa military invaded Angola to boost the fortunes of FNLA-UNITA alliance, and frustrate the MPLA. Successive governments in Nigeria continued to fight against the apartheid regime. Speaking at the OAU extraordinary summit in January 1976, at Addis Ababa, Ethiopia, former Head of State, General Murtala Mohammed declared: "First, we call the attention of all to the diabolical role of apartheid. The main elements of that criminal doctrine are too well known to this Assembly to necessitate any detailed analysis. Suffice it to say that the whole rationale behind this doctrine, which the United Nations had aptly condemned as a crime against humanity, is the perpetual subjugation of the African man, in order to create a paradise on earth for the whites.

When I contemplate on the evil of apartheid, my heart bleeds, and am sure the heart of every true-blooded African bleeds" (Garba, 1987). As a result of the pressure mounted by Nigeria and other nations of the world, Non-government Organizations and influential individuals, the racist regime of South Africa collapsed in 1991. Onuoha (2008) noted that by 1991, "the buildup of the various diplomatic pressures and support of nationalist movements had worn out the racist regime of South Africa and eventually

led to its collapse". With the obituary of apartheid in 1991, the need for a change in diplomatic strategies arose. Ebegbulem (2013) opined that at the dawn of democracy in South Africa, Nigerians, especially the professionals, were part of early migrants to South Africa. Part of the philosophy of those early migrants was to contribute to the much needed nation building in post apartheid South Africa.

4. Post Apartheid Nigeria- South Africa Relations

With a democratic and majority rule in place in 1994, South Africa quickly switched over the Pariah Status in the International Community with Nigeria (Ebegbulem, 2013). However, the new democratic regime in Pretoria, the popular government of national unity (GNU) led by the antiapartheid icon, President Nelson Mandela, quickly established bilateral relations with Nigeria in 1994, though the latter was under the military leadership led by late General Sani Abacha. Banjo (2010) noted that the move was in recognition of Nigeria's role in the liberation of apartheid South Africa. Pretoria's assumption of moral authority to advise on democracy and the advancement of human rights was base on what South Africa had adopted as her pillars of foreign policy after 1994, but was misinterpreted by Nigeria's military junta as an attempt by Pretoria to set up competition between the two countries which Nigeria claimed she was not interested in (Banjo, 2010).

Nigeria's side of the argument was in itself a distortion of the facts. For example, military involvement in politics was already out of fashion in the world. The relationship between the two countries was tense because of Abacha's desire to hang onto power, and gross abuse of human rights in Nigeria (Banjo, 2010). Provisions were quickly replaced by arbitrary decrees, which paved the way for the junta to embark on gross human rights abuses in disregard of the judiciary. The regime soon faced unprecedented opposition from human rights groups and crusaders for democracy because Abacha was seen by many as an insider of the Babangida's military junta, who could only extend Babangida's agenda in the Aso-rock (Abuja), Nigeria's sit of power.

With the hunter being hunted, Nigeria's foreign policy towards South Africa became apologetic. World opinion swelled up against Nigeria. Onuoha (2008) noted that Nigeria - South Africa confrontations reached its zenith in 1995 when the then South African President, Nelson Mandela vigorously campaigned for the expulsion of Nigeria from Commonwealth during the Commonwealth Summit in Auckland. This was in protest of the execution of the "Ogoni Nine". According to Orji (2001), most western nations, alongside South Africa, imposed a number of sanctions against Nigeria, after she withdrew her High Commissioner from Nigeria in protest. One of which was a ban on issuance of visas to senior military officers and senior government officials and their families, particularly those who actively formulated and implemented or, benefited from the policies that impeded Nigeria's transition to democracy.

As Banjo and Omidiran (2000) noted that Abacha responded by refusing to let the Nigerian Super Eagles defend their African Cup of Nations gold medal (which the Nigerian team had won in 1994 in Tunisia) in South Africa in 1996. In Nigeria's calculation, the first indication that South Africa intended to use sports as a weapon was when South Africa withdrew the invitation of Nigeria's Super Eagles to the four –nation tournament organized by South Africa. The South African Football Association alleged that it was because of the hanging of the "Ogoni nine" that the invitation was withdrawn. The Nigerian sports authorities protested to FIFA asking for South Africa to be punished for mixing sport with politics. Nigeria based her argument on the ground that suspension of Nigeria from the Commonwealth because of the killing of the "Ogoni nine" was a political issue which should not have influenced sports decisions. The Federation Internationale de Football Association (FIFA) agreed but only warned South Africa, promising, however, to punish her if there were any future occurrence of mixture of sport and politics (Banjo & Omidiran, 2000).

Abacha's untimely death on June 8, 1998, turned events around between the two countries. With the emergence of democratic government in place in Nigeria, Nigeria - South Africa relations became less confrontational but

friendly and cordial. On May 29, 1999, the military formally stepped aside and that gave birth to civilian rule.

5. Nigeria – South Africa Bilateral Relations

The birth of civilian rule in Nigeria initiated a fresh start between both countries, with Nigeria considered as one of South Africa's important partners in advancing the vision of Africa's political and economic renewal. Onuoha (2008) noted that "with more than 75 universities, Nigeria contains a large population of Africa's centre for learning and research". He further observed that the expanding large consumer market and petrodollar have made Nigeria – South Africa bilateral relations inevitable. On the other hand, South Africa with about 45 million citizens is currently Africa's wealthiest economy. The country boasts of modern economic infrastructure, especially when compared with the rest of Africa. Covering less than 4% of the continent's landmass and accommodating less than 6% of its population, provides more than half of the electricity output of Africa and puts more tonnage through the ports; provides more air transport than the rest of Southern and east combined. As at mid-April 2003, an estimated 55 South African Companies were doing business in Nigeria. The single largest investor is MTN. Its entrance into the Nigerian market came by way of the first telecommunication auction process in Africa in January 2001, when it awarded one of Nigeria's Global System Mobile Licence for a fee of US$28m (Onuoha, 2008).

DSTV, as a major force in the television industry, accounts for 90% of the viewers that watch satellite TV in Nigeria between 2005 and 2009. This has seen DSTV growing into the sixth largest company listed on the Lagos Stock Exchange. Similarly, the Dangote Group of Companies with headquarters in Nigeria have investment portfolio of nearly $400 million in cement production in South Africa; and Nigeria's Oando Oil Company is listed on the Johannesburg Stock Exchange.

Oil represents over 95 percent of Nigeria's exports to South Africa (Nagar & Paterson, 2012). It will be recalled that the former Heads of State of

Nigeria and South Africa, Chief Olusegun Obasanjo and Thabo Mbeki worked relentlessly to lobby the rich nations of the world to focus greater attention on African problems. Ebegbulem (2013) observed that in the G-8 meeting of the world's richest states in 2000, both leaders argued strongly that the rich nations should forgive Africa's debt. Both had called for technology and resource transfer from the West to Africa, criticizing the gap between promise and delivery on the part of most western states.

The New Partnership for Africa's Development (NEPAD), championed by Mbeki and Obasanjo equally proposed a simple bargain: the west provides debt relief, opens its markets, invests in Africa and supports peacekeeping missions in exchange for democratic accountability and financial probity by African leaders through a self-monitored peer review mechanism. The personality of General, Olusegun Obasanjo and his South African counterpart, Thabo Mbeki, was a major contributing factor to the emerging and cordial relationship between the two countries. Obasanjo and Mbeki perceived the urgent need for Africa's re -birth and they shared equal passion for the realization of such goal (Adebajo & Landsberg, 2003). Since 1999, South Africa has emerged among the top investors in many sectors of the Nigerian economy, their presence is visible in the Nigerian economy, especially in areas such as telecommunication, engineering, banking, retail, property development, construction and tourism, to mention a few. In terms of technology and infrastructure, South Africa has an edge over Nigeria while Nigeria has an advantage of large market potentials for investments over South Africa August 2016, Nigeria was reported to have lost its position as Africa's biggest economy to South Africa, following the recalculation of the country's Gross Domestic Product (GDP).

The IMF's World Economic Outlook for October, puts Nigeria's GDP at 415.08 billion dollars, from 493.83 billion dollars in 2015, while South Africa's GDP was put at 280.36 billion dollars, from 314.73 billion dollars in 2015, thereby making South Africa the second largest economy in Africa (Tony, 2016). Meanwhile, the Bi-National Commission

(BNC), constituted the context for strategic partnerships to enhance bi-lateral relations and redeem Africa's economy.

It is noteworthy that negotiations held in October 1999 and April 2000 on the avoidance of taxation on income and capital gains, reciprocal promotion and protection of investments, co-operation in the fields of mining, geology, exploration, and energy (Banjo, 2010). Indeed, from 2000-2004 witnessed a more focused and active articulation of a strategic partnership between Nigeria and South Africa. The trust between Nigeria and South Africa nosedived in 2004, when a Johannesburg radio presenter humorously insulted the Nigerian president, Olusegun Obasanjo, who was in

South Africa for Mbeki's inauguration, that he probably carried cocaine in his luggage (Games, 2013). As observed by Seteolu and Okuneye (2017), the relationship turned edgy in 2008 with the xenophobic attack on Nigerians that raised questions on the historic friendship between the countries. In recent years, Nigeria-South Africa diplomatic relations has deteriorated on many fronts, prompting the visit of President Goodluck Jonathan to South Africa where he addressed the latter's joint parliament. The Presidential visit was prompted by the yellow fever certificate saga that involved both countries. The South African government had on March 2, 2012 deported 125 Nigerians for possessing fake yellow fever vaccination cards. For many, the action was the height of ingratitude and the peak of alleged xenophobia tendencies of the South African government and its citizens domiciled in their country, which raised the temperature of relations between the two countries higher (Adekunle, 2012). Before they reached a truce, the Nigerian government retaliated by sending home the first batch of the country's travellers from the Murtala Muhammed International Airport, Lagos.

6. The Impact of Xenophobic Attacks on Nigeria– South Africa Relations

The unsavoury fallouts from the recent xenophobic attacks on Nigerians in South Africa have lead to a strain in the economic and political relationship

that exists between the two countries. On Thursday, 23 February, 2017 irate Nigerian youths, under the platform of the National Association of Nigerian Students (NANS) laid siege on offices of MTN in Abuja, while the Senate broached on possible reprisal, including preventing MTN, DSTV and Shoprite from doing business in the country. The Militants equally warned the South Africans that the only way their citizens in Nigeria could be safe, is if they halt hostilities against their compatriots in South Africa doing legitimate business. With the brewing tension between the two economic giants of Africa, it is only a matter of time before an estimated N1.5 trillion economic relationship between them would be affected. Nigeria is a major supplier of oil and gas to South Africa, while South Africa ships in automobile, wine and paperboard to Nigeria among other product (Akuki, 2012).

If Nigeria has any policy on South Africa, it is undoubtedly that of "No Compromise with Apartheid", as propounded in 1963 by Dr. Jaja Wachukwu, the then Minister of External Affairs. Apart from that, it can be said that Nigeria has a reactive policy which is more declaratory and less retaliatory. This has afforded the South African government, the luxury of speaking from both sides of its mouth in the face of xenophobic atrocities of its citizen against foreigners. The South African government is always prompt in explaining that xenophobia is not in any way South African in character and that all those involved in the act would be brought to book. Unfortunately, the world is yet to be told who were responsible for the first xenophobic attacks and how many of them have been tried (Olaode, 2017).

7. Rethinking Nigeria Foreign Policy of Afrocentrism

Nigeria's commitment to the development and unity of Africa has been unprecedented. If the world is not loudly praising and applauding Nigeria despite her glowing and ground-breaking contributions to African peace, security and prosperity, it is not for lack of credible track record of achievements and capacity. It could be rather due to her hard luck of always having her many virtues written on water and its few vices carved on marble (Idehen, 2014). Most worrisome is the continuous humiliation of Nigeria

especially from those whom she has made incredible contribution to South Africa is one of those countries that have refused to come to terms with the leadership role of Nigeria in Africa, perhaps, because of the unhealthy competition over regional hegemony (Idehen & Osaghae, 2015).

One undisputable reality is that in recent times, the Afrocentric posture of Nigeria has failed in its entirety to give the country and its people the modicum of respect and fear she deserves and used to be known for. This obviously is not unconnected with the serious systemic problem within the domestic arena, which has culminated into this palpable situation where we have become a nation which has moved from the sublime to the ridiculous in the way and manner the world relates with us. Our "Giant of Africa" status has crumbled in the eyes of many nations, owing to the fact that we are surrounded with lots of domestic challenges like, Corruption, Insecurity, Poverty, Hunger, Inflation etc. There is need for us to look inward and resuscitate the economy, instead of playing nice outside, while the giant in us have fallen apart.

8. **Conclusion**

Nigeria-South Africa relation has been a potpourri of cooperation and conflict. That beyond xenophobia, though a worldwide phenomenon continues to plague African countries with development, economic hardships and immigration issues. The alienation of foreign nationals especially black immigrant in South Africa had successfully created a thick line of partition between the "we" and the "them" in South Africa, undermining the ethos of black brotherhood rooted in Africa socialism and communalism. This partition might be with us for long unless urgent steps are taken to address the trigging factors that led to these attacks. Recurring conflicts affect bi-lateral relations; this makes it imperative to create effective conflict management mechanism to respond to it.

9. Recommendations

i. The paper recommends that South-Africa as a matter of urgency review its migrant policy and embark on massive reorientation of its populace on the international protocol on migration.

ii. The paper equally recommends the need for Nigeria to adopt a dynamic foreign policy posture that will reflect its contemporary economic realities.

iii. The paper recommends a retaliatory actions and sanctions against African union members that abused international protocols.

REFERENCE

Adebajo, A., & Landsberg, C. (2003). South Africa and Nigeria as Regional Hegemons, in Mwesiga, B.& Landsberg, C. (Eds). From Cape to Congo: South Africa‟s Evolving Security Challenges. London:Lynne Rienner.

Adekunle, A. (2012, March 14). Untold story of Nigeria/South Africa face-off over yellow fever. The Vanguard Newspaper, Retrieved from https://www.vanguardngr.com/2012/03/untold-story-ofnigeriaSouth-africa-face-off-over-yellow-fever/DOI: 10.9790/0837-2210086169 www.iosrjournals.org 67 | Page

Akionla, O. (2014). South Africa and the two face of Xenophobia: A critical reflection. African Peace and Conflict Journals, 7(1), 56-57.

Akuki, A. (2017, March 2). Xenophobia: Threat to Nigeria-South Africa Trade Relationship. The Independent Newspaper, Retrieved from http://www.independent.ng/xenophobia-threat-to-nigeria-Southafrica-trade-relationship/

Babalola, A. (2017, March 29). Xenophobia attacks of Nigerians in South Africa. The Vanguard Newspaper, Retrieved from https://www.vanguardngr.com/2017/03/xenophobia-attacks-nigerians-Southafrica/

Banjo, A. (2010). South Africa – Nigeria Diplomatic and Economic Relations, 1994 – 2004. Journal of African Studies Association of India, 2(1), 81-93.

Banjo, A., & Omidiran, P. (2000). Politics of International Sports: The Nigerian Experience. Lagos:Afreb.

Bekker, S., & Carlton, D. (2010). Racism, xenophobia and ethnic conflict. Natal,SA: Crede

Campbell, D. (1965). Ethnocentric and other Altruistic Motive. Lincoln: University of Nebraska.

Crush, J., & Williams,V. (2013). Criminal Tendencies: Immigrants and illegality in South Africa. Migration Policy Brief 10. Cape Town: SAMP

Ebegbulem, J. (2013). An Evaluation of Nigeria - South Africa Bilateral Relations. Journal of International Relations and Foreign Policy 1(1), 32-40.

Games, D. (2013). Nigeria–South Africa Baseline study. South Africa Institute of International Affairs, Johannesburg, SAFPI Policy Brief 44.

Garba, J. (1987). Diplomatic Soldiering: Nigerian Foreign Policy, 1975-1979. Ibadan: Spectrum.

Gwaradzimba, E., & Shumba, A. (2010). The nature, extent and implication of the brain drain in Zimbabwe and South Africa. Acta Academia 42(1), 209-213.

Harris, B. (2001). A Foreign Experience: Violence, Crime, and Xenophobia during South Africa's Transition. Violence and Transition Series Johannesburg, 15(1), p. 34.

Idehen, O. (2014). Nigeria's Role in Management of African Affairs at the multilateral stage. Edo: EDRIC

Idehen, O., & Osaghae, S. (2015). Xenophobia in South Africa: Rethinking the Nigeria Foreign Policy of Afrocentrism. An International Multidisciplinary Journal, Ethopia, 9(4) 9-11.

Landau, B., & Jacobsen, J. (2004). Refugees in the New Johannesburg. Forced Migration Review, 19(1).

Landau, L. (2015). Transplant and transients: Nativism, nationalism and migration in inner-city Johannesburg. Migration working paper. Retrieved from http://wwww.migration.org.za

Leggett, T. (2003). Rainbow Tenement: Crime and Policing in Inner Johannesburg Monograph. Pretoria: Institute for Security Studies.

Musuva, C. (2014). The politics of xenophobia in South Africa: Marginalisation of Africa migrants by the state in Ewusi, K. & Butera, J. (Eds). Beyond State-Building: Confronting Africa's Governance and Socio-Economic Challenges in the 21st Century. Addis Ababa: University of Peace Africa Programme.

Nagar, D., & Peterson, M. (2012). The Eagle and Springbok: Strengthening the Nigeria-South Africa Relation. South Africa: Cape Town Centre for Conflict Resolution.

Ndujihe, C., Umoru, H., Ovuakporie, J. A., Ojeme, V., & Nwabughiogu, L. (2017, February 21). Xenophobia attacks on Nigerians: FG warns S-Africa of dire consequences. The Vanguard Newspaper, Retrieved from https://www.vanguardngr.com/2017/02/ xenophobic-attacks-nigerians-fg-warns-safrica-dire-consequences/

Nyamnoh, B. (2006). Insiders and outsiders: citizenship and xenophobia in contemporary Southern Africa. London: Zed

Oksana, Y. (2008). Xenophobia: Understanding the Roots and Consequences of Negative Attitude towards Immigrants. The Counselling Psychologist Journal (37)1, 40-46.

Olaode, F. (2017, February 26). Nigeria's Foreign Policy Attitude and Containment of South Africa's Recidivist Xenophobia. Thisday Newspaper, Retrieved from http://www.thisdaylive.com/index.php/2017/02/26/nigerias-foreign-policy-attitude-and-containment-ofSouth-africas-recidivist-xenophobia/#

Onuoha, J. (2008). Beyond Diplomacy: Contemporary Issues in International Relations. Nsukka: Great AP.

Orji, N. (2001). From Liberation to Competition: Nigeria – South Africa Relations in the Aftermath of Apartheid. Msc Project Submitted to the University of Nigeria, Nsukka.

Osiki, M. (2015). Xenophobia and press reportage of the I969 immigrants from Ghana: The Nigerian experience. Journal of Applied Thought 1 (4), 174.

Petkou, C. (2005). The development of ethnic minorities: A case study of West Africans in South Africa. PhD Thesis submitted to the University of Witwatersrand, Johannesburg. DOI: 10.9790/0837-2210086169 www.iosrjournals.org 68 | Page *Xenophobia And Nigeria – South Africa Relations*

Seteolu, B., & Okuneye, J. (2017). The Struggle for Hegemony in Africa: Nigeria and South Africa Relations in Perspectives, 1999-2014. African Journal of Political Science and International Relations, 11(3), p. 63.

Sherif, M. (1966). In Common Predicament: Social Psychology of Intergroup Conflict and Cooperation. Boston: Houghton Mofflin.

Shishonga, N. (2015). The impact of Xenophobia-Afrophobia on the informal economy in Durban CBD, South Africa. The Journal for Tran disciplinary Research in Southern Africa, 11(14), 164.

Shrief, M., Harvey, O., White, J., Hood, W., & Shrief, W. (1961). Intergroup Conflict and Cooperation: The Robbers Cave Experiment. Norman, OK: University Book Exchange.

Sichone, O. (2008). Xenophobia in Shepherd, N. & Robins, s. (Eds). New Southern African Keywords. (pp. 63-225). Johannesburg: Jacana.

Tevera, D. (2013). African Migrants, Xenophobia and Urban Violence in Post-Apartheid South Africa. Interdisciplinary Journal for the study of the Arts and Humanities in Southern Africa. 7(9), 24-25

Tony, E. (2016, October 19). Nigeria Remains Africa's Biggest Economy – IMF. The Vanguard Newspaper, Retrieved from http://www.vanguardngr.com/2016/10/nigeria-remains-africas-biggesteconomy-imf Ogbonnaya Chibuzor. "Xenophobia And Nigeria – South Africa Relations." IOSR Journal Of Humanities And Social Science (IOSR-JHSS) , vol. 22, no. 10, 2017, pp. 61–69. DOI: 10.9790/0837-2210086169 www.iosrjournals.org 69 | Page

ASSESSING THE EXTENT AND APPLICATION OF CAMPAIGN FINANCE LAWS TO ASPIRANTS, CANDIDATES AND POLITICAL PARTIES

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Abstract

A brewing debate that has been going on in current national discourse regards who the subjects of campaign finance laws are between political parties, candidates and aspirants of elections throws up the question regarding the status of an aspirant or candidate, and whether any difference(s) exists in fact between the two. This article differentiates between an aspirant and a candidate of an election by analyzing the relevant provisions of the Constitution of the Federal Republic of Nigeria, the Electoral Act, and relevant case law on the subject. The paper acknowledges that political resources drive party vibrancy and competitiveness, and as such, the existence of a level playing ground in terms of public financing of political parties is crucial because beyond the obvious fact that it ensues credibility, it emphasizes the importance of transparency and accountability in tune with a legal framework that monitors the abuse of funds in the electoral process. Consequently, the *paper finds that campaign finance laws in Nigeria are not in tune with contemporary realities and recommends essential amendments to the Electoral Act.*

Key Words: *Aspirant, Candidate, Campaign, Election, Finance, Expense*.

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1. INTRODUCTION

There has been a growing controversy within recent Nigerian national discourse regarding the extent of the application of campaign finance laws. In this regard, the burning question is who between a political aspirant and a candidate of an election is bound to comply with the provisions of the Electoral Act on campaign financing. This subject is particularly germane because the distinction between an aspirant and a candidate has been the subject of keen interest between politicians, commentators, and the general public.

Campaign finance is one of the more complicated topics in the field of election law and policy. Political campaign finance refers to funds used to promote the interest of political parties and candidates. It can refer to all funds raised to promote candidates and political parties by individuals, charitable organizations and political action committees.[2] Notwithstanding money being a necessary aspect of modern politics, it creates challenges for democracies around the world. In one way or another, these problems relate to breaking a link between voters and those who are elected or seeking election.[3] Beyond being competitive in the race, fundraising superiority correlates with victories: the better-funded candidate tends to win elections.[4]

Although the exact problems may vary between different jurisdictions, the challenges almost always bear a uniform coloration because political campaigns have enormous expenditure ranging from cost of travel of candidates and staff to political consulting.

This paper attempts a juxtaposition of an aspirant and a candidate at an election vis-à-vis the relevant provisions of the Electoral Act with a view

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[2] Heard, Alexander, *The Costs of Democracy*, Chapel Hill NC: University of North Caroline Press, 1960.

[3] Magnus Ohman, "*Controlling money in Politics: An Introduction*" (2013) International Foundation for Electoral Systems. Available online at: https://ifes.org/sites/default/files/a_brief_introduction_to_money_in_politics_final_magnus_ohman.pdf (Accessed 25/09/2019)

[4] Maggie Koerth-Baker, *How Money Affects Elections*, Available online at: https://fivethirtyeight.com/features/money-and-elections-a-complicated-love-story/ (Accessed 25/09/2018)

to ascertaining the scope and reach of campaign finance laws as it regards a candidate or an aspirant in an election.

2. LEGAL FRAMEWORK OF CAMPAIGN FINANCE LAWS IN NIGERIA

I. The Constitution of the Federal Republic of Nigeria 1999 (as amended):

There is no express provision within the wordings of the Constitution stipulating the limit of expenditure of political parties and their candidates but there are sections that deal with the finances of political parties generally,[5]and of utmost interest is the limitation placed on political parties especially with respect to their funding activities. *Section 225 (2)* is unambiguous on the finances of political parties that "*every political party shall submit to the Independent National Electoral Commission a detailed annual statement and analysis of its sources of funds and other assets together with a similar statement of its expenditure in such form as the commission may require*."

Sub sections *(3), (4), (5)* and *(6)* of the same provision are even more forthcoming on the roles of INEC in checking the financial dealings and status of political parties. To this end, Subsection *(3)* states that *"no political party shall - (a) Hold or possess any funds or other assets outside Nigeria; or (b) Be entitled to retain any funds or assets remitted or sent to it from outside Nigeria."* Sub-section 4 states that: *"Any funds or other assets remitted or sent to a political party from outside Nigeria shall be paid over or transferred to the commission within twenty-one days of its receipt with such information as the commission may require*." Sub-section 5 on its part holds that *"the Commission shall have power to give directions to political parties regarding the books or records of financial transactions which they shall keep and, to examine all such books and records."*

Section 226 (1) permits INEC to mandatorily prepare and submit annually to the National Assembly a report of the accounts and balance sheet of every political party. In preparing its report, sub-section 2 of the same

[5] Section *225-6* made provision on finances of the political parties.

provision empowers INEC to: *"Carry out investigations as will enable it form an opinion as to whether proper books of account and proper records have been kept by any political party, and if the Commission is of the opinion that proper books and accounts have not been kept by a political party, the Commission shall so report*."

It is also important to examine the provisions of *section 228* of the 1999 Constitution, especially as it deals with public funding of political parties and punishment for those that contravene the sections. It states inter-alia that *"the National Assembly may by law provide- (a) for the punishment of any person involved in the management or control of any political party found after due inquiry to have contravened any of the provisions of sections 221, 225 (3) and 227; (b) for the disqualification of any person from holding public office on the ground that he knowingly aids or abets a political party in contravening section 225 (3) of this constitution; (c) for an annual grant to the Independent National Electoral Commission for disbursement to political parties on a fair and equitable basis to assist them in the discharge of their functions; and (d) for the conferment on the Commission of other powers as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the commission more effectively ensure that political parties observe the provisions of this part of the chapter.*"

These are constitutional instruments aimed at closely monitoring and supervising the activities of the income and expenditure of political parties.

II. The Electoral Act, 2010

In Nigeria, the framework governing political campaign finance is the Electoral Act. According to *Section 91(2) and 91(3)* of the Electoral Act, the maximum election expenses to be incurred by a candidate at a presidential and governorship election shall be one billion naira only and two hundred million naira only respectively. Also, *Section 91(4)* of the Electoral Act states that the maximum election expenses to be incurred by a candidate for a senatorial and House of Representatives election shall be N40m only and N20m only respectively. Independent political campaign finance experts have frequently noted that Nigeria's president, governors,

senators and members of the House of Representatives spend much more than the amount allowed by the Electoral Act.

The implication here is that the campaign finance laws in Nigeria are not in tune with the realities on the ground. While there is a need to advocate a reduction in the amount of money spent by politicians and political parties, there is also a need to review the electoral realities and laws in the country.

3. CROSS-COUNTRY SURVEY

i. United States of America (USA)

Many countries rely heavily on private donors to finance political campaigns, and in such countries, fundraising is often a significant activity for the campaign staff and candidates, especially in larger and more prominent campaigns. In the United States of America, campaigns are a multi-billion dollar industry, dominated by professional political consultants using sophisticated campaign management tools. Although the quadrennial presidential election attracts the most attention, the United States has a huge number of elected offices.[6]

There are wide variations between different states, counties, and municipalities on which offices are elected and under what procedures. While parties play a significant role in fundraising and occasionally in drafting people to run, the individual candidates themselves ultimately control campaigns. For example, one survey in the USA found that 23% of candidates for statewide office surveyed say that they spent more than half of their scheduled time raising money, and over half of all candidates surveyed spent at least 1/4 of their time on fundraising.[7]

[6] The Modern Political Campaign, Available online at: https://courses.lumenlearning.com/boundless-politicalscience/chapter/the-modern-political-campaign/

[7] Peter L. Francia, "Begging for Bucks - Campaign Fundraising''- Available online at: https://web.archive.org/web/20040916073623/http://www.findarticles.com/p/articles/mi_m2519/is_2_22/ai_74410584 (Accessed 12/02/2020)

Another study finds that political donations give donors significantly greater access to policymakers.[8] As a result, countries like the USA have rules on contribution limits with rules in place on how the candidates can raise and spend their money. The primary rule is that the money raised has to be disclosed, and Presidential candidates in an election year for instance, file monthly reports. There are limits as to how much an individual can give any candidate, and in this regard, no individual can give more than $2,800 to any candidate for any one election. The limit on giving to the national party committee is $35,500, so it's higher for the party committee than it is for individual candidates.[9] The idea is to ensure policing of undue donor influence and at the same time preserving most benefits of private financing including the right to make donations.

ii. The United Kingdom (UK)

Unlike the American model, campaign finance in the United Kingdom is very prudent in application and scope with very strict spending limits imposed upon the parties and candidates. Spending limits during election campaigns apply to candidates, political parties and non-party campaigners. Political parties spend is capped at £30,000 for each constituency that it contests in a general election so where a party presents a candidate in each of the UK's 650 constituencies, the maximum spend for that party would amount to a total of £19.5M.[10]

Political parties have to report information on donations to the Electoral Commission every quarter. Every donation of more than £7,500 that is made to a party must be declared, along with those of more than £1,500 made to a party's accounting units. These limits vary for different elections. Political parties have to record what they spend during the election

[8] See Kalla, Joshua L.; Broockman, David E. (2015-04-01). "Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment," American Journal of Political Science. 60(3): 545–558. doi:10.1111/ajps.12180. ISSN 1540-5907.

[9] See "Elections 2020- Campaign Finance in the 2020 Elections'' - *FPC BRIEFING by* Ellen Weintraub, Commissioner Federal Election Commission- Available online at: https://www.state.gov/elections-101-campaign-finance-in-the-2020-elections/

[10] See "General election 2019: How much can parties spend?'' Available online at: https://www.bbc.com/news/election-2019-50170067 (Accessed 18/09/2020)

campaign, and also report their spending to the Electoral Commission in a spending return.[11]

Non-party campaigners on their part, have to register with the Electoral Commission if they intend to spend over £20,000 in England, and £10,000 in Scotland, Wales or Northern Ireland. And once these non-party campaigners have registered with the Commission, they have to record their spending, and report it to the body.[12] Much of the campaigning in Britain remains local, with candidates pounding the streets, knocking on doors, issuing leaflets and sending mails. This is very much in contrast with the American model that has been described in Britain "*as the worst of all worlds," focused on "raising money and not about getting ideas across*."[13]

If the spending rules are broken, the maximum fine is £20,000 per offence. The Conservative Party, the Labour Party, and Women's Equality parties were very recently investigated for weekly spending reports that were inaccurate ahead of the last general election.[14]

4. THE SUBJECTS OF CAMPAIGN FINANCE LAWS: ASPIRANTS OR CANDIDATES?

In order to determine who between an aspirant and a political candidate are the subjects of campaign finance laws, it is imperative to define (and identify) those two categories of persons. An aspirant in plain terms seems to refer to a person having the ambitions to achieve something, typically to follow a particular career. A political aspirant more specifically is referred

[11] See "*Campaign spending: Political parties and non-party campaigners*,'' Available online at: https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/financial-reporting/campaign-spending-political-parties-and-non-party-campaigners (Accessed 29/08/2020)

[12] Ibid

[13] This was the view of Justin Fisher, a professor of political science at Brunel University London- See "*Britain's Campaign Finance Laws Leave Parties With Idle Money,''* Available online at: **https://www.nytimes.com/2015/05/05/world/europe/britains-campaign-finance-laws-leave-parties-with-idle-money** (Accessed 25/08/2020)

[14] See "General election 2019: How much can parties spend?'' Available online at: https://www.bbc.com/news/election-2019-50170067 (Accessed 18/09/2020)

to as a contestant, applicant, competitor, etc. of a political position within a political party.[15]

The Electoral Act is not explicit with either a definition or a distinction between the two terms. Within the wording of Section 91 (2)-(4) and subsections (8), (9), (10) and (12), the word "*candidate*," not "aspirant" is used. Consequently one may assume that provision of the Electoral Act on campaign financing applies only to the Candidates of an election. However, section 92 (1) provides that: *"For the purposes of an election, election expenses means expenses incurred by a political party within the period from the date notice is given by the Commission to conduct an election up to and including, the polling day in respect of the particular election.''* This provision implies that in computing the period of time as regards the legality or otherwise of election expenses, it covers a period before the party primary election up the general elections.

It is pertinent to note however, that while the laws have not been explicit with the definition of a candidate or an aspirant, the political sphere has been replete with claims and counter-claims from commentators on the subject. In the run-up to the 2019 general elections, supporters of President Muhammadu Buhari and former Vice President Atiku Abubakar who was the main opposition candidate spent nearly N60M on Presidential nomination forms for the two politicians thereby triggering renewed debates around campaign finance provisions.[16] The main opposition party the People's Democratic Party (PDP) described the development as a violation of the Electoral Act.[17] Citing Section 91 (9) of the Electoral Act that *"no Individual or other entity shall donate more than One Million Naira to any candidate,"* critics argued that the money spent on the two politicians violated the campaign finance provisions in the 2010 Electoral Act.

This position was backed by Chief Mike Ozekhome (SAN) who stated that both presidential aspirants and their supporters who bought the forms for

[15] https://en.oxforddictionaries.com/definition/aspirant (accessed on 18/09/19)

[16] See https://www.premiumtimesng.com/news/headlines/283160-election-forms-buhari-atiku-violating-electoral-act-lawyers-say-others-differ (Accessed 20/09/2018)

[17] See https://www.premiumtimesng.com/news/headlines/283160-election-forms-buhari-atiku-violating-electoral-act-lawyers-say-others-differ (Accessed 20/09/2018)

them are in breach of the electoral law, and by the provisions of S. 91 (11) of the Act, liable to punishments ranging from nine months imprisonment or a Five Hundred Thousand Naira fine or both.[18] Countering this, Festus Keyamo (SAN) opined that S. 91 (9) of the Electoral Act "*limits (CASH) not material donations in respect of candidates to N1M*," and that President M. Buhari was only an aspirant at that point in time and only becomes a candidate when he submits his filled nomination forms to the party.[19]

Unfortunately, judicial pronouncements have done little to eliminate the shroud of ambiguity that surrounds the subject of who a candidate or aspirant is. In the case of *Akingbulu v Ogunbanjo*,[20] Hon. Justice Monica Dongban-Mensem (JCA) held thus:

"In my limited understanding of the electoral process it appears reasonable to expect that once a person has been nominated by his party, presented and screened by INEC officials the only hurdle left in the process of election is the casting of votes. The outcome of the votes (polls) caps the election processes. Thus, such a person is a candidate and his locus standi is incontestable. He has crossed the threshold of campaign to the pedestal of a nominated candidate. He has been armed with the authority to represent his party and its supporters at the battle."

By this pronouncement, the learned JCA identifies a candidate only as someone who has been nominated by a party, presented and screened by the election body's officials having crossed the threshold of campaign. This tallies (somewhat) with the line of thinking of Mr Keyamo (SAN) because at that point in time the incumbent Nigerian President had neither been nominated by his party, nor gone through a process of electioneering campaigns.

Similarly, in the case of *Engr. Onwukaike Nwambam v Chief Innocent Utulor Ugochima and others*,[21] M.A. Owoade (JCA) delivering the lead Judgement in a dispute over exclusion of candidates for elections by a

[18] See https://www.premiumtimesng.com/news/headlines/283160-election-forms-buhari-atiku-violating-electoral-act-lawyers-say-others-differ (Accessed 20/09/2018)
[19] See http://dailypost.ng/2018/09/07/n45m-nomination-form-keyamo-replies-critics-says-buhari-not-yet-apc-presidential-candidate/ Accessed 21/09/2018
[20] (Unreported Appeal No CA/L/EPT/LAS/NA/001/2007)
[21] (2010) LPELR-4643 (CA)

party, held thus: *"indeed, to sustain an argument on unlawful exclusion, the claimant must first establish valid nomination by a recognized political party and publication by INEC of his name as the candidate for the election. It is only after the claimant has established the investiture of legal right of a duly nominated and officially published candidate for an election that the burden of proving lawful exclusion can conceivably arise in relation to the returned candidate."*

In the instant case, having failed to prove valid nomination, the appellants claim for unlawful exclusion failed. This in essence meant that his non-nomination by the party translates to not being a candidate and may as well have only been an aspirant.

In another case of *P.P.A. v Saraki*,[22] Sankey JCA observed thus: *"The 'candidate in an election' referred to' both in sections 144 (1) and 145 (1) (d) is a person who has competed with others in the process of selecting a person to occupy a public office. In the interpretation of this statute I have called in aid the golden rule of interpretation, which seeks to ascribe to the words in a statute their ordinary and literal meaning.''*

By the learned JCA's dictum, it is clear that an individual only becomes a candidate upon competing with others in the process of selecting someone to occupy an office.

Away from these judicial pronouncements, the combined effect of *Sections 91 and 92* of the Electoral Act may imply that the provision of the Electoral Act on election expenses covers both the Aspirant and a Candidate for an election. Saving this assumption and eliminating this ambiguity, the Independent National Electoral Commission in its *"Guidelines for Political rallies and campaigns by political parties, candidates, aspirants and their supporters (2013),"* charts a definitive way with the definition of the two terms. Although a subsidiary legislation, it is the only law that explicitly defines the two terms. The Guidelines state that "*a person is a candidate at an election if he or she is a member of a political party; is sponsored by a political party; is nominated by a the political party through the process of party primaries (in line with Section 87 of the Electoral Act 2010 as*

[22] (2007) 17 NWLR (Pt. 1064) 453 at pp. 519-521 paras G-D

amended) or adjudged to be a candidate by a competent Court or Tribunal; and has satisfied other requirements or qualification for elective office in the Constitution (FRN) 1999 (as amended).''[23]

The same legislation defines an aspirant to be *''any member of a political party seeking sponsorship and support to be a candidate for an elective office in the election.*''[24] It goes further to state that aspirants seeking sponsorship as candidates can solicit for support from their political party members by holding private fund raising, reception, courtesy calls, visits, display of party emblem, slogan, posters, billboards through traditional or new social media platforms (such as the internet and related social networks) provided such aspirants do not solicit for votes or advance their aspirations for any specific elective office before the release of the time-table by the Commission in compliance with Section 99 of the Electoral Act 2010 (as amended).

By these two definitions, the distinction between an aspirant and a candidate is clear, as are the pre-election conducts required of them by the electoral body.

5. CONCLUSION, AND SUGGESTIONS FOR REFORM

Proponents of private financing believe that it fosters civic involvement and diversity of views, while also preventing undue government influence towards favoring those with political influence.[25] Critics of the system on the other hand, claim that it leads to votes being "*bought*" and produces large gaps between different parties in the money they have to campaign against.[26] On a general note, antagonists of election financing describe campaign finance as political corruption and bribery, and the need to maintain political campaign is viewed in some quarters as weakening ties

[23] Section 8
[24] Section 4
[25] *See Kalla, Joshua L.; Broockman, David E. "Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment" (2015) American Journal of Political Science. 60 (3): 545–558 doi:10.1111/ajps.12180. ISSN 1540-5907.*
[26] *Ibid*

to a representative democracy due to the influence that large contributors have over politicians.[27]

Another school of thought rejects the notion that large donations create even an appearance of corruption. They believe that spending large sums of money in connection with elections, but not in connection with an effort to control the exercise of an officeholder's official duties, does not give rise to *quid pro quo* corruption. Nor does the possibility that an individual who spends large sums may garner "influence over or access to" elected officials or political parties.[28] Their argument is that citizens have ultimate control over their politicians because, at the end of the day, money does not vote, people do.[29] It is a mathematical fact that when it comes to counting votes, a non-donor has the same amount of influence as a donor. However, before any citizen casts a ballot, before they watch a debate or see an advertisement or even become aware of their choices, candidates are subject to a filtration process in the form of fundraising.[30]

These contending views have their merits but this paper aligns with the notion that the attempts to regulate campaign financing reflects the commonly held belief that uncontrolled political fund-raising and spending can undermine the integrity of the democratic process and erode the confidence of the electorate in political Institutions.[31] Thus, transparency in political finance was initiated by the United Nations Convention Against Corruption (UNCAC), which states that all countries should "*consider taking appropriate legislative and administrative measures, consistent with*

[27] *Ansolabehere, Stephen; John de Figueiredo; James M. Snyder, Jr. (2003). "Why Is There So Little Money in U.S. politics?" Journal of Economic Perspectives, Massachusetts Institute of Technology* ***17*** *(1): 105–30. doi:10.1257/089533003321164976.*

[28] See the case of *McCutcheon v. FEC*, 572 U.S. 185 (2014); *see also First Amendment — Freedom of Speech — Aggregate Contribution Limits — McCutcheon v. FEC*, 128 HARV. L. REV. 201 (2014).

[29] *See* Lawrence Lessig "*What an Originalist Would Understand Corruption to Mean''*, 102 CALIF. L. REV. 1, 22 (2014)

[30] *Ibid*

[31] *Ansolabehere, Stephen; John de Figueiredo; James M. Snyder, Jr. (2003). "Why Is There So Little Money in U.S. politics?". Journal of Economic Perspectives. Massachusetts Institute of Technology* ***17*** *(1): 105–30. doi:10.1257/089533003321164976.*

the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties."[32]

These views have led to reform of campaign financing with the hope of eliminating big-money influence in politicking especially as independent political campaign finance experts have frequently noted that Nigeria's president, governors, senators and members of the House of Representatives spend much more than the amount allowed by the Electoral Act. For instance, the amount specified in the Electoral Act 2006 was doubled in the Electoral Act 2010 by putting the campaign expenses limit of a presidential candidate at N1 billion. While this increase might have been justified by the apparent high cost of politics, the current limits are totally unrealistic going by the actual expenses incurred by political parties that have contested very recent elections.[33]

The implication is that the campaign finance laws in Nigeria are not in tune with the realities on the ground. It goes without saying therefore that there is a need for the reduction in the amount of money spent by politicians and this can be achieved through a review of the electoral laws in the country to bring Nigeria in tune with contemporary realities.

Within the immediate context of this work, the following recommendations are proffered-

1. Due to the complexities, ambiguities, and technicalities of the political/campaign finance laws, there should be more explicit definition of terms such as "election campaign," "party finance," "political finance," "expenditure";
2. Section 92 of the Electoral Act should be amended to clearly include candidates and spirants in the computation of election expenses;

[32] UNCAC Article 7(3)

[33] See Adebowale Olorunmola, "*Cost of Politics in Nigeria"*, A Background Paper of the Westminster Foundation for Democracy. Available online at: https://www.wfd.org/wp-content/uploads/2017/09/Cost-of-Politics-Nigeria.pdf (Accessed 19/05/2020)

3. Section 91 of the Electoral Act should be amended to bring aspirants within the regulatory purview of the law regarding limitation of election expenses.

AMENDMENT TO THE DEEP OFFSHORE AND INLAND BASIN PRODUCTION SHARING CONTRACT ACT AND STABILISATION CLAUSES

Shamsu Yahaya*

Abstract

Production Sharing Contracts (PSCs) contain stabilisation clauses which are contractual risks management tools to protect International Oil Companies (IOCs) from attempts by the host government to modify the agreement through subsequent changes in legislation. However, stabilisation clauses have not prevented host countries from asserting their sovereign rights over natural resources by attempting to increase their share from PSCs, especially when crude oil prices are on the rise. In 2019, the Deep Offshore and Inland Basin Production Sharing Contracts (PSC) (Amendment) Bill was passed into law. The Amendment aims to significantly increase Nigeria's earnings from oil wells located deep offshore. This paper discusses the implication of the amendment in relation to effective renegotiation of PSCs in light of stabilisation clauses contained in the PSCs. Based on the doctrinal research methodology and relying on primary and secondary sources, the paper argues that the insertion of a well drafted renegotiation clause in a PSCs, to deal with changes in underlying circumstances, is a modern and effective strategy for renegotiating such contracts. The paper recommends that well drafted renegotiation clauses should be inserted in PSCs to protect the interest of parties to such contracts. The paper also highlights the need for the Nigeria National Petroleum Corporation to renegotiate existing PSCs with IOCs in order

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uphold the sanctity of contracts and ensure that the Nigerian oil and gas industry remains attractive to investors.

Key words: Stabilisation Clauses, Oil and Gas, Petroleum, Production Sharing Contracts, Renegotiation, Sovereignty

1. INTRODUCTION

The relations between host countries and international oil companies (IOCs) are often contained in long-term agreements, which may be in form of concessions, joint venture agreements, PSCs and risk service agreements, amongst others. These agreements are high-risk, capital intensive and long-term, involving activities of the investor in the host country, from exploration to the development and finally decommissioning of oil fields. The risks involved in upstream petroleum exploration include the geological, commercial, technical, managerial, natural disaster risks and political risk.[34] These risks necessitate host governments to provide incentives to IOCs. One of such incentives is the insertion of a stabilising clause in a PSC in order to attract foreign investment. This clause is a contractual risks management tool to protect IOCs from attempts by the host government to modify the agreement through subsequent changes in legislation. The clause provides that neither party may change the terms of the agreement without the consent of the other.[35]

[34] Regulatory Expropriation, Investment Protection and International Law: When Is Government Regulation Expropriatory and When Should Compensation Be Paid?'
<https://www.researchgate.net/publication/268056452_Regulatory_Expropriation_Investment_Protection_and_International_Law_When_Is_Government_Regulation_Expropriatory_and_When_Should_Compensation_Be_Paid>
(accessed on 06/10/2019).

[35] Timothy B. Hansen, 'The Legal Effect Given Stabilisation Clauses in Economic Development Agreements',
[1987] (28) *Va. J Int'l L*, 1015-1016.

Unfortunately, when many of the existing investment agreements were signed, most developing countries lacked the enforcement capacity to ensure maximum benefit from their natural resources reserve.[36] However, despite the existence of stabilisation clauses, many host countries regularly seek to assert their sovereign rights over natural resources by attempting to increase their share from PSCs, especially when crude oil prices are on the rise. Many countries also seek to assert their sovereign right to enjoy maximum benefits and to avoid adverse consequences from the exploitation of petroleum which may be compromised if stability is an express term of the agreement. It is, therefore, arguable that stabilisation clauses do in fact provide the requisite immunity against host government action.

In Nigeria, in recent years there has been a clamour for the review of the Federal Government's share of revenue under the PSCs between the various IOCs and the Nigerian National Petroleum Corporation. This clamour is based on the provisions of the Deep Offshore and Inland Basin Production Sharing Contract Act (PSC Act)[37]. Section 16(1) of the PSC Act requires the Federal Government to review the share of revenue accruable to the Federation, pursuant to a PSC, whenever the price of crude oil exceeds $20 per barrel. However, the Federal Government has not adjusted the revenue accruable to the Federation over the years despite the fluctuating increase in the price of crude oil beyond $20 per barrel.[38] In 2017, the Ministry of Petroleum resources disclosed that the Federal

[36] Natural Resources and Violent Conflict Options and Actions. <http://documents.worldbank.org/curated/en/578321468762592831/pdf/282450Natural0resources0violent0conflict.pdf> accessed 14 October 2019.

[37] CAP. D3. LFN, 2004.

[38] Supreme Court Orders Federal Government to Increase its Revenue Share under Oil Production Sharing Contracts. <https://andersentax.ng/supreme-court-orders-federal-government-to-increase-its-revenue-share-under-oil-production-sharing-contracts/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=View-Original> accessed 04 October, 2019.

Government was considering reviewing the PSCs, due to the fact that it lost about $21 billion over a period of 20 years due to the failure to review the PSCs.[39] In 2019, the President of Nigeria signed the Deep Offshore and Inland Basin Production Sharing Contracts (PSC) (Amendment) Bill into law. The Amendment Act aims to significantly increase Nigeria's earnings from oil wells located deep offshore.[40]

Against this backdrop, this paper seeks to examine the impact of the amendment of the PSC Act in light of stabilisation clauses in PSCs. The paper is divided into 6 Sections. Section one covers the introduction to the subject, Section 2 discusses the amendment to the PSC Act, Section 3 discusses the principle of sovereignty over natural resources, Section 4 covers stabilisation clause in PSCs, Section 5 discusses renegotiating and highlights how host governments can effectively renegotiate PSCs despite the existence of stabilisation clauses and Section 6 is the conclusion.

2. Amendment of the PSC Act

The PSC Act is designed to enshrine into law certain fiscal incentives given to exploration companies operating in the Deep Offshore and Inland Basin areas (mainly international oil companies [IOCs]) (the "Operators") under PSCs with the Nigerian National Petroleum Corporation (NNPC). Section 15 of the Principal Act provides that the relevant provisions of all existing enactments or laws, including but not limited to the Petroleum Act, and the Petroleum Profit Tax Act, be read

[39] A coup against PSC Contractors? – Re: Attorney General of Rivers State & 2 Others v. Attorney General of the Federation: Impending review of Nigeria PSC Act.
<https://www.templars-law.com/a-coup-against-psc-contractors-re-attorney-general-of-rivers-state-2-others-v-attorney-general-of-the-federation-impending-review-of-nigeria-psc-act/> accessed on 04 October, 2019.

[40] Lekan Dairo, 'Deep Offshore and Inland Basin Production Sharing Contracts (Amendment) Act 2019: Overview'
<https://tnp.com.ng/insights/deep-offshore-and-inland-basin-production-sharing-contracts-amendment-act-2019-overview>
accessed 14 September 2020.

with such modifications as to bring them into conformity with the provisions of the Principal Act. Section 5 of the Principal Act provided for the payment of royalties by the Operators on a sliding scale referenced to the water depths at which oil was produced. Furthermore, Section 16 of the Principal Act provides for periodic reviews to ensure that if the price of crude oil at any time exceeds US$20 (Twenty United States Dollars) per barrel, the share of the Federal Government in the additional revenue shall be adjusted under the PSCs to such extent that the PSCs shall be economically beneficial to the Federal Government. In effect Section 16 allows the Federal Government to review and adjust its shares of revenues above $20% per barrel; and permits parties to renegotiate the PSCs after the expiration of fifteen years from commencement and every five years thereafter.[41] The PSC Act was enacted to grant certain incentives to companies operating in the deep offshore and inland basin area. These incentives included reduced royalty rates and lower tax rates to encourage investments in these areas, amongst others.

The PSC Act was amended in 2019. Whilst presenting the 2020 budget to the National Assembly on October 8, 2019, the President noted that the amendment could yield up to Five Hundred Million United States Dollars (US$500,000,000) in additional revenue for the Federal Government of Nigeria.[42] The amendment introduced provisions for price-reflective royalties, 8 year periodic review of the PSCs and penalties for

[41] Lekan Dairo, 'Deep Offshore and Inland Basin Production Sharing Contracts (Amendment) Act 2019: Overview'https://tnp.com.ng/insights/deep-offshore-and-inland-basin-production-sharing-contracts-amendment-act-2019-overview?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration
accessed 14 September, 2020.

[42] <https://www.banwo-ighodalo.com/grey-matter/stabilization-clauses-production-sharing-contracts-new-amendments-deep-offshore-inland-basin-production-contract-act>
accessed on 14 September, 2020.

non-compliance with the Act.[43] The amendments to the Act are aimed at increasing Nigeria's earnings from the oil and gas industry to increase the Federal Government's revenue.[44] In essence, under the PSC Act, royalties for Deep Offshore PSCs were based on a sliding scale of water depth with the highest rate at 12% in areas between 201 to 500 meters water depth and 0% in areas in excess of 1000 meters of water depth. The Amendment to the Act has changed this by providing for a combination of a flat royalty rate for deep offshore and inland basins and change in price of crude, gas and condensate.[45]

It is to be noted that the implication of the stabilisation clause in PSCs between the Nigeria National Petroleum Corporation and the IOCs is that there is need to re-negotiate the PSCs in order to restore as near as practicable the commercial benefits of the IOCs under the specific PSC. Further, such modification should be negotiated and agreed within a certain time to prevent a recourse to arbitration.[46] Consequently, the need to increase the Federal Government's revenue must be balanced with the need

[43] The Deep Offshore and Inland Basin Production Sharing Contracts Bill receives executive assent <https://www.pwc.com/ng/en/assets/pdf/new-deep-offshore-act.pdf> accessed 14 September, 2020.

[44] Ibid.

[45] Olumide Bidemi , Moyo Omidiran and Damilola Oshodi, 'Nigeria: The Deep Offshore And Inland Basin Production Sharing Contract (Amendment) Act 2019: Matters Arising' <https://www.mondaq.com/nigeria/oil-gas-electricity/862970/the-deep-offshore-and-inland-basin-production-sharing-contract-amendment-act-2019-matters-arising> accessed 14 September, 2020.

[46] Stabilization Clauses In Production Sharing Contracts - How Relevant In The Light Of Amendments To The Deep Offshore & Inland Basin (Production Sharing Contract) Act? <https://www.banwo-ighodalo.com/grey-matter/stabilization-clauses-production-sharing-contracts-new-amendments-deep-offshore-inland-basin-production-contract-act> accessed 14 September, 2020.

to uphold the sanctity of contracts in order to ensure the Nigerian oil and gas industry remains attractive to investors.[47]

3. Principle of sovereignty over natural resources

In the past, it was a common practice for most developing countries rich in oil reserves granted concessions over their oil resources to IOCs. Gradually, as the tide of resource nationalism began to rise, most host countries sought to re-negotiate their contractual agreements with investors in favour of PSCs. A PSC is a contract between IOCs and host states. It authorises the IOC right to conduct petroleum exploration and exploitation of oil fields within a certain area (contract area) in accordance with the terms of the agreement. It is considered as the oldest form of risk contract and has two basic features; first, it authorises the contractor to undertake petroleum exploration and exploitation within the contract area Second, it creates a contractual form of co-operation between the contractor and the state party. A PSC has been described as a form of taxation designed to satisfy the political objectives for state participation.

The rise in nationalistic feelings has continued until today with attempts at nationalisation of companies coupled with an increase in taxes and royalties especially when the price of crude oil per barrel is on the increase.[48] Sovereignty over natural resources is indeed one of the most controversial principles of international law. The principle is aimed at reinforcing developing countries right to enjoy the benefits of resource exploitation. The principle also aims to allow the alteration of inequitable legal agreements under which foreign investors were granted title to exploit resources in the past or even to annul such agreements for being incompatible with the principle of sovereignty over natural resources.[49] It is a principle of customary international law and has its legal origin in UN

[47] Ibid.

[48] Halina Ward, "Resource nationalism and sustainable development: a primer and key issues"<https://pubs.iied.org/pdfs/G02507.pdf> accessed on 14 October, 2019.

[49] Nico Schrijer, *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge University Press, 1997), 1-3.

Resolution 1803.[50] Furthermore, the UN General Assembly in 1974 adopted the Charter of Economic Rights and Duties of States (CERDS). Article 2 of the CERDS provided guarantees complete permanent sovereignty allowing each state to become the sole authority to decide on the possession, use and disposal of all its wealth, natural resources and economic activities.

In Nigeria, the right to ownership and control of natural resources under is a matter recognised by the Constitution of the Federal Republic of Nigeria, 1999 (as altered). The Constitution in Section 44 (3) and item 39 Schedule II of the Exclusive Legislative List vests the control and management of the natural resources and hydrocarbon operations on the federal government for the common good and benefit of the citizens. In the case of *Attorney-General (A.G.) of Rivers State & 2 Others vs A.G of the Federation,* the Supreme Court delivered a Consent Judgment which mandated the Federal Government to increase its share of revenue under oil PSCs whenever the price of crude oil exceeds $20 per barrel in line with Section 16 (1) of the PSC Act. This judgment was implemented by the Federal Government by amendment of the PSC Act. The implication is that the Federal Government's share of revenue under PSCs would increase and the IOC's share of revenue under PSCs would invariably reduce.[51] In that situation, the question may be asked as to what is the legal implication of agreements entered into which contain a provision or a clause that protects a party (IOCs) from unilateral amendment of contracts that alters the sharing formula contained in a PSC. This question is addressed in the next section.

[50] UN Resolution 1803 (xvii) of 14 December 1962.

[51] 'Supreme Court Orders Federal Government to Increase Its Revenue Share Under Oil Production Sharing Contracts' <http://www.mondaq.com/Nigeria/x/760500/Oil+Gas+Electricity/Supreme+Court+Orders+Federal+Government+To+Increase+Its+Revenue+Share+Under+Oil+Production+Sharing+Contracts> accessed on 09 October, 2019.

4. Stabilisation clauses in PSCs

Stabilisation clauses are provisions inserted in international petroleum contracts to restrain a host government from exercising state power to abrogate or otherwise intervene in agreements concluded with foreign companies.[52] By agreeing to the insertion of a stabilisation clause, the host state makes a commitment to refrain from unilateral actions that may modify the terms of the agreement entered into with a foreign investor.[53] It is essentially a popular risk management tool that can create some feeling of security when faced with adverse governmental measure that purports to alter international contracts.[54]

Stabilisation clauses aim to protect the IOCs, by restricting the legislative or administrative power of the Host State, as sovereign in its country, from amending the PSC or even to annul the agreement.[55] The long duration of investment contracts makes them susceptible to political and economic influences which may not be foreseeable when the contract was concluded, but which can affect the terms of the contract. It is for this reason that IOCs seek reassurances that the host state are willing to abide by the sanctity of contract.[56]

There are different types of stabilisation clauses. A traditional stabilisation clause seeks to freeze the law of the host state as it existed at the time the agreement was signed between the parties. Another type of stabilisation clause requires both parties to perform the contract in good faith. While the former type of stabilisation clause expressly prohibits the

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[52] T.W. Walde, G. Ndi, 'Stabilizing International Investment Commitments: International Law versus Contract Interpretation' [1996] (31) *Tex. Int'l Law Journal*, 215-216.

[53] Jose Macedo, 'From Tradition to Modernity: Not Necessarily an Evolution - The Case of Stabilisation and Renegotiation Clauses' [2011] (9) (1) *OGEL 2* <www.ogel.org>
accessed on 12 February 2019.

[54] Joseph Nwaokoro, 'Enforcing Stabilisation of International Energy Contracts' [2010] (3) (1) *Journal of World Energy Law and Business*, 103.

[55] Bernardini, P. 'Stabilization and Adaptation in Oil and Gas Investments' [2008] (1) (1) *Journal of World Energy, Law & Business*.

[56] Nwaokoro (n 21),104-105.

host state from enacting any law that might have a negative effect on the agreement, the latter simply implies that there should be no unilateral modification or termination of the agreement.[57]

In reality, governments can make and alter laws through subsequent legislation. Besides, a contract is not a strong instrument that can fetter the legislative authority of a sovereign. Thus, unless there is in existence an external authority to enforce stabilisation clauses, such clauses are virtually ineffective.[58] Where disputes arise, host states seek to undermine the validity of stabilisation clauses as being contrary to their sovereign rights. Many host states criticise such clauses by claiming that the government agency within the state which signed the stabilisation clause did not even have the authority to do so and, therefore, the state cannot be bound by such un-authorised actions.[59] Cases do exist where courts did decide in favour of states in conformity with the above argument.[60] However, in the majority of cases, arbitral tribunals have held that stabilisation clauses are valid and therefore compensation must be paid whenever it has been breached.[61]

In instances where a host state acts in breach of a stabilisation clause, an arbitral award may enjoin the host state to refrain from applying the new laws or may order it to compensate the IOC for the breach.[62] Although the state might raise claim of sovereign rights in order to avoid the effects of the stabilisation clause, the state's agreeing to insertion of the clause is a sufficient argument to convince the arbitration tribunal that the

[57] Amaechi D. Nwokolo, 'Is There a Legal And Functional Value of the Stabilisation Clause in
International Petroleum Agreements?' [2004] (8) *CEPMLP Annual Review* <http://www.dundee.ac.uk>
(accessed on 05/10/2011).
[58] Sornarajah, M., *The International Law on Foreign Investment* (2nd edn, Cambridge University Press, United Kingdom, 2004), 407-410.
[59] Ibid.
[60] See the case of SPP ltd v. Egypt (1983) 22 ILM 752.
[61] Margarita T B Coale, "Stabilisation Clauses in International Petroleum Transactions" [2001] (30) *Denv. Journal of Int'l Law and Policy*, 229.
[62] Bernardini (n 22), 101.

foreign investor is entitled to compensation for any damage[63]. Thus in AGIP Co. SpA v. Government of the Popular Republic of Congo,[64] the arbitral tribunal held that the nationalisation by the respondent (host state) was in breach of both domestic and international law because it breached the stabilisation clause contained in the agreement and ordered the respondent to pay compensation to the claimant.

5. Renegotiation PSCs in light of stabilisation clauses

Contractual risks in PSCs especially price volatility, economic and political risks can lead to calls for renegotiation of agreements and claims to sanctity of contracts. These risks can be addressed through agreed terms and an appropriate Internal Revision and Adaptation System (IRAS).[65] Through an effective renegotiation and adaptation mechanism, parties can create a balanced Internal Adaptation System (IAS), aimed to guarantee investment security for IOCs and political or socio-economic acceptability for host states.[66] The major approaches to re-aligning contractual efficiency and established equilibrium of parties is to make the adjustment automatic or achieved in a manner stipulated in the contract so that the economic balance struck between the parties on the effective date of the contract is re-established.[67]

It is, therefore, reasonable to argue that parties to a PSC should have a right to renegotiate obligations in long-term international commercial contracts, as a result of unforeseen changes in the underlying

[63] Ibid.
[64] ICSID Case No. ARB/77/1.
[65] Coale (28), 219.
[66] Thomas W. Wälde, "Renegotiating Acquired Rights in the Oil and Gas Industries: Industry and Political Cycles Meet the Rule of Law" [2008] (1) (1) *Journal of World Energy Law Bus,* 55-97.
[67] A.F.M. Maniruzzaman, "The Pursuit of Stability in International Energy Investment Contracts: A Critical Appraisal of the Emerging Trends" [2008] (1) (2) *Journal World Energy Law & Business*, 127-131.

circumstance(s).[68] Insertion of a renegotiation clause is a new approach to resolve doubts concerning the legal effectiveness of stabilisation clauses and the host state's desire to assert its sovereign right over natural resources. This entails an arrangement or agreement that if future laws are enacted which affect the IOCs share in a PSC, negotiations shall be entered into in good faith in order to reach a solution agreeable to the parties, in order to maintain the economic equilibrium of the agreement.

The renegotiation clause offers parties to a PSC protection against the hardship caused by a change of circumstances which were present at the time of the signing of the agreement. By undertaking to renegotiate the agreement in good faith, in case of any change, the host state binds itself to conduct negotiations with the foreign investor rather than unilaterally altering the terms of the agreement.[69] Renegotiation clauses usually provide that any law, regulation or any other government act subsequent to the original contract that negatively affects the investor's contractual interests will entitle the contractor with the right to request for the contract renegotiation and that the host country will have the obligation of entering into such renegotiations in good faith. A typical renegotiation clause will provide that either the host government or foreign investor has the right to request for the contract adaptation if its equilibrium is negatively affected under the occurrence of an event that is beyond the control of both parties.[70]

Indeed, one of the major reasons for the growing popularity of a renegotiation clauses in national laws has been attributed to their greater flexibility and versatility. A further argument for using renegotiation clauses instead of stabilisation clauses is that host governments usually enter into agreements with IOCs to explore and develop natural resources at a time when the government is not certain as to the extent, quality, and

[68] Abba Kolo and Thomas .W. Wälde, 'Renegotiation and Contract Adaptation in the International Investment Projects: Applicable Legal Principles & Industry Practices', [2003] (1) (2) *OGEL Journal*, 1-48.
[69] Bernardini, (n 22), 102.
[70] Hadiza Tijjani Mato, "Role of Stability and Renegotiation in Transnational Petroleum Agreements*"* [2012] (5) (1) *Journal of Politics and Law*, 35.

future prices of the natural resources. This underscores the need for legislation that is flexible and amenable to changing circumstances in both domestic and international political and economic situations.[71] The other reason is related to the principle of permanent sovereignty over natural resources which allows a government to unilaterally repeal or amend legislation relating to the exploitation of its natural resources. In this regard, a renegotiation clause allows the government to regulate the various matters within its jurisdiction such as the environment, tax, fixing the price levels, production control, labour matter, safety and all other matters that fall within a government's powers.[72]

In Nigeria, the Petroleum Industry Bill (PIB) was drafted essentially based on the National Oil and Gas Policy 2004.[73] The policy provided for a review of operating agreements, contracts, and memorandums of understanding governing the operations of the upstream oil and gas sector with a view to ensuring that Nigeria's gains from oil and gas business are maximized.[74] In this regard, the Federal Government aims to carry out an overhaul of the government petroleum revenue system in the last four decades through the PIB. Accordingly, from the perspective of the Federal Government, the existing PSCs were assessed as 'bad deals' for Nigeria, which call for renegotiations and reviews.[75]

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[71] K. Hossain, S.R. Chowdhury (eds.), *Permanent Sovereignty over Natural Resources in International Law,* (London, 1984).

[72] Linnet Mafukidze, 'Legislative Drafting Tools for Stabilization Provisions and Economic Balancing Provisions' [2010] (12) (58) *Eur. Journal of Law Reform*, 94.

[73] National Oil and Gas Policy for Nigeria <https://www.petroleumafrica.com/national-oil-and-gas-policy-for-nigeria/> accessed on 07 October, 2019.

[74] Ibid.

[75] Tade Oyewunmi, 'Stabilisation and Renegotiation Clauses in Production Sharing Contracts: Examining the Problems and Key Issues' <file:///C:/Users/Pool%206/Downloads/StabilisationandRenegotiationClausesinProductionSharingContracts_OGEL2011.pdf> accessed on 07 October, 2019.

The National Assembly split the PIB into four parts, the Petroleum Industry Governance Bill; the Petroleum Industry Administration Bill; the Petroleum Industry Host Community Bill; and the Petroleum Industry Fiscal Bill (PIFB). The Petroleum Industry Governance Bill was passed by the Nigerian legislature in the second quarter of 2018, and sent to the President for assent. The President declined assent, citing some constitutional and legal issues. The PIFB, if passed into law, would amongst other things, repeal the Inland Basin Production Sharing Contract Act.[76] The PIFB transitional provisions seek to remove tax allowances/tax credits; this would negatively impact companies operating in the deep-water regions, under PSCs.[77]

A look at the 2005 Nigerian Model PSC terms on renegotiation and review states that-

> "…This Contract shall not be amended or modified in any respect except by mutual consent, in writing, of the Parties…"[78]
>
> "….The Parties agree that the commercial terms and conditions of this Contract are based on the existing fiscal terms in accordance with the provisions of the Deep Offshore and Inland Basin Production Sharing Contracts Act, 1999. If such fiscal terms are changed, the Parties agree, subject to Clause 27.3, to review the terms and conditions of this Contract affected by such changes to align such terms and conditions with the fiscal terms…"[79]

This model of review clauses envisages future events and changes (especially regulatory) that could affect the commercial and fiscal

[76] Insight: Nigerian Petroleum Industry Fiscal Bill—Encouraging Investment? https://news.bloombergtax.com/daily-tax-report-international/insight-nigerian-petroleum-industry-fiscal-bill-encouraging-investment accessed on 14 October 2019.

[77] Ibid.

[78] Nigerian Model Production Sharing Contract 2005 (Extract) Clause 26.2, (Source: Barrows, New York)

[79] Ibid (Clause 27.1)

equilibrium of parties. It fails to qualify the 'change' mentioned, thus 'change' could mean 'any change'. This is very ambiguous and could serve as a tool of confusion. Furthermore, no time limit to renegotiations is stipulated as to when 'change' occurs; the referral to arbitration if there is a failure to agree is not stated; the procedure and conditions for resolving and addressing conflict of interests before legal disputes arise is not provided for; another pertinent question is at what point will the negotiations be deemed to have broken down completely?[80]

It is submitted that the best option for parties to a PSC in the quest for long-term contractual efficiency is to strike the right balance by inserting a properly drafted renegotiation clause in the agreement. As Walde points out, negotiation to a smaller share in a profitable PSC is better than the option of full exit and a compensation claim in international arbitration, with no guarantee of winning the case.[81] In this wise, what is required is careful drafting of provisions that provide for renegotiation or re-adjustment so that there is a detailed provision of the situations that may be deemed to be significant on the economy or environment necessitating amendments, with the aim of avoiding ambiguity.[82]

Consequently, where the provision is drafted in clear and unambiguous terms, and also in accordance with the principle of state sovereignty over natural resources, the host state will not be prevented from exercising its sovereign powers for public good and in the public interest.[83] This further means that the host state can also regulate the activities of foreign investors who conduct exploration and production of oil and gas resources in a manner that is detrimental to the environment without fear of compensation, occasioned by stabilisation clauses.[84]

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[80] Oyewunmi (n 42).
[81] Walde (n 19).
[82] K. Adams, 'Contract Drafting: Revisiting Materiality - The Ambiguity at the Heart of a Fundamental Concept' [2007] *New York Law Journal.*
[83] A.F.M. Maniruzzaman, 'Damages for Breach of Stabilisation Clauses in International Investment law: Where Do We Stand Today?' [2007] (11) (12) *IELTR*, 246-251.
[84] Mafukidze (n 39), 93.

6. Conclusion

This paper discussed the amendment to the PSC Act and effective renegotiation of PSCs. This is in view of the fact that PSCs usually contain stabilisation clauses. The significance of such clauses is that regulatory and tax regimes will not be adjusted without compensation to the IOC. The IOC's normally insist on such clauses in order to reduce political and economic risks. Investors usually insist upon stabilisation clauses to be included into contracts as a precondition for an agreement to be reached thus relying on the principle of "sanctity of contracts". Sovereign states, of course, wish to make regulations, effect fiscal changes and make legislations within their sovereign territory. The middle point is when parties in 'good faith' incorporate a renegotiation clause into the contract, to deal with changes in underlying circumstances.

The amendment to the Act raises concerns of whether the contractors would make stabilisation claims under their relevant PSCs and initiate arbitration proceedings to settle the claim. Indeed, in light of the amendment to the PSC Act, it is necessary for the Nigeria National Petroleum Corporation and the IOCs, who have executed PSCs that contain Stabilisation Clauses, to review the terms and conditions of the PSCs, in order to determine the amendments that will be made to the PSC in view of the provisions of the Amendment Act. Presently, IOC's have huge investments in Nigeria. Therefore, the two actors have to co-operate with each other to protect the sanctity of contracts enhance harmonious business relationship conducive to both parties. This can be achieved through the insertion of well-drafted renegotiation clauses in PSCs.

REFERENCES

Adams K., 'Contract Drafting: Revisiting Materiality - The Ambiguity at the Heart of a Fundamental Concept' [2007] *New York Law Journal*.

Bernardini, P. 'Stabilization and Adaptation in Oil and Gas Investments' [2008] (1) (1) *Journal of World Energy*.

Buntler M., 'The Iranian Buy Back Agreement' [2003] (1) (2) *Oil, Gas &. Energy Law Intel.*

Coale M.T.B., "Stabilisation Clauses in International Petroleum Transactions" [2001] (30) *Denv. Journal of Int'l Law and Policy*.

Hansen T.B., 'The Legal Effect Given Stabilisation Clauses in Economic Development Agreements' [1987] (28) Va. J Int'l L.

Hossain K., S.R. Chowdhury (eds.), *Permanent Sovereignty over Natural Resources in International Law* (London, 1984).

Kolo A., Wälde T.W., 'Renegotiation and Contract Adaptation in the International Investment Projects: Applicable Legal Principles & Industry Practices', [2003] (1) (2) *OGEL Journal*.

Macedo J., 'From Tradition to Modernity: Not Necessarily an Evolution - The Case of Stabilisation and Renegotiation Clauses' [2011] (9) (1) *OGEL 2* Available at: <www.ogel.org>

Mafukidze L., 'Legislative Drafting Tools for Stabilization Provisions and Economic Balancing Provisions' [2010] (12) (58) *Eur. Journal of Law Reform*.

Maniruzzaman A.F.M., 'Damages for Breach of Stabilisation Clauses in International Investment law: Where Do We Stand Today?' [2007] (11) (12) *IELTR.*

Maniruzzaman A.F.M., "The Pursuit of Stability in International Energy Investment Contracts: A Critical Appraisal of the Emerging Trends" [2008] (1) (2) *Journal World Energy Law & Business.*

Mato H.T., "Role of Stability and Renegotiation in Transnational Petroleum Agreements" [2012] (5) (1) *Journal of Politics and Law.*

Nwaokoro J., 'Enforcing Stabilisation of International Energy Contracts' [2010] (3) (1) *Journal of World Energy Law and Business*.

Nwokolo A.D., 'Is There a Legal and Functional Value of the Stabilisation Clause in International Petroleum Agreements?' Available at: [2004] (8) *CEPMLP Annual Review* <http://www.dundee.ac.uk>

Lekan Dairo, 'Deep Offshore and Inland Basin Production Sharing Contracts (Amendment) Act 2019: Overview'
https://tnp.com.ng/insights/deep-offshore-and-inland-basin-production-sharing-contracts-amendment-act-2019-overview

Nutavoot P., 'Partnerships in Oil and Gas Production-Sharing Contracts' [2004] (17) (5) *The International Journal of Public Sector Management.*

Olumide Bidemi , Moyo Omidiran and Damilola Oshodi, 'Nigeria: The Deep Offshore And Inland Basin Production Sharing Contract (Amendment) Act 2019: Matters Arising'
<https://www.mondaq.com/nigeria/oil-gas-electricity/862970/the-deep-offshore-and-inland-basin-production-sharing-contract-amendment-act-2019-matters-arising>

Oyewunmi T., 'Stabilisation and Renegotiation Clauses in Production Sharing Contracts: Examining the Problems and Key Issues' Available at: <file:///C:/Users/Pool%206/Downloads/StabilisationandRenegotiationClausesinProductionSharingContracts_OGEL2011.pdf>

Phillip D., 'Evaluating State Participation in Mineral Projects: Equity, Infrastructure and Taxation' in Otto, J. (eds) *The Taxation of Mineral Enterprises* (London Graham & Trotman 1995).

Sornarajah, M., *The International Law on Foreign Investment* (2nd edn, Cambridge University Press, United Kingdom, 2004.

Schrijer N., *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge University Press, 1997).

Taverne B., 'Production Sharing Agreements in Principle and in Practice' in M.R. David (eds), *Upstream Oil and Gas Agreement* (London, Sweet & Maxwell, 1996).

Walde T.W., Ndi G., 'Stabilizing International Investment Commitments: International Law versus Contract Interpretation' [1996] (31) *Tex. Int'l Law Journal*.

Wälde T.W., "Renegotiating Acquired Rights in the Oil and Gas Industries: Industry and Political Cycles Meet the Rule of Law" [2008] (1) (1) *Journal of World Energy Law Business*

Ward H., "Resource Nationalism and Sustainable Development: A Primer and Key Issues"
Available at: <https://pubs.iied.org/pdfs/G02507.pdf>

IMPACT OF FISCAL CONTROL INSTITUTIONS ON FINANCIAL ACCOUNTABILITY IN NIGERIAN PUBLIC SECTOR: A STUDY OF OYO STATE

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ABSTRACT

This paper sought to evaluate the impact of Fiscal Control Institutions (FCIs) on financial accountability in Oyo State public sector. The paper also set out to recommend measures that will enhance the discharge of financial accountability. In this paper, three (3) hypotheses were formulated and tested. The primary data was obtained through the administration of questionnaires which was supplemented with secondary data. The proportional stratified sampling technique was used in selecting respondents to whom the questionnaires were administered. The population of the study was 398 out of which a sample of 200 was studied. The chi-square (χ^2) test statistics was used to test the three hypotheses. The findings of this paper indicate that fiscal control institutions failed to significantly impact financial accountability in Oyo State. The Public Accounts Committee of the State Legislature never met to consider the report of the Auditor General between 2015 and 2017. The implication of these findings is that the FCIs are unable to discharge their constitutional responsibility as regards accountability in public financial management. The paper recommends, among other things, that in recognition of the importance and influence of Public Account Committee's oversight on financial accountability, the Oyo State House of Assembly (OYHA) should

immediately prioritize the modernization of the State Auditor-General's Office and the PAC Secretariat should be reorganized.

Keywords: Public sector, budget, financial responsibility, fiscal control and accountability.

1.0 INTRODUCTION

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. (James Madison or Alexander Hamilton, The Federalist No.51, in Rossiter 1961)

One of the distinguishing features of any public financial management system is the role of fiscal control institutions (such as Treasury Office, the Parliament and the audit) in public spending (Lienert, 2005). The duties of every fiscal control institution are enshrined in the Constitution to facilitate the discharge of financial accountability. Financial accountability is concerned with adherence to applicable laws and regulations, consistency with appropriate accounting principles and traditions, accuracy and fairness of reports; and complete legitimacy of expenditure (Oladoyin, Elumilade & Ashaolu, 2005: 22-23). It has been proven that absolute control over finance by one arm offers for its abuse, and this is why power over finance is divided, the division being formally recognized constitutionally in virtually all countries.

The practice, world over, shows that power over finance is shared between the Executive and the legislature and in some cases with an independent body, such as Audit Institution. However, the question here is that has this Constitutional sharing of power over finance achieved the desired result? Constitutionally, one of the responsibilities placed on government is to put up a framework for the management and control of the public purse. The formalities established in relation to accounting and financial control

support the process of governance. One important tool in fiscal governance and control is budget. It is also most relevant to the economic policy in any country. This is so because it is the second most important document after the constitution in any nation. It signifies that the budget is an expression of the constitution and statutes of a government which endow the executive and legislature with designated financial and managerial responsibilities (Ugoh and Ukpere, 2009).

Furthermore, in any democratic government, the Legislature has a constitutional responsibility to exercise its power of financial oversight on the Executive arm of government. This singular act has positive effects on the performance of the State Auditor-General. This is true because, audit constitutes the instrument of control in the financial and administrative process of operating government business. In recent years, however, the entire machinery for applying these control mechanisms by the Offices of the Auditor-General seems to have collapsed hence the confirmed financial improprieties virtually in every area of Nigerian public sector (Udu, 2013). The duties of the Auditor-General are, among others, to audit and report on the public accounts of ministries and extra ministerial departments and other bodies created by an Act of the legislature. The office of the Auditor-General (OAG) of many states in Nigeria, including Oyo State, has been called to question. It is alleged that Auditor Generals are incapable of discharging the functions of his office which is constitutionally prescribed. Furthermore, many State Legislatures in Nigeria including Oyo State Legislature are seen to be weak and unable to discharge their constitutional responsibility by exercising their power of financial oversight on the Executive arm of government. This problem is alleged to have adverse effects on the performance of the State Auditor-General.

Again, it has been argued that governments must implement the necessary institutional arrangements required to enhance public sector financial accountability. An integral and essential part of these arrangements is the use of accrual-based accounting, through the adoption and implementation of International Public Sector Accounting Standards (IPSASs), which promotes greater transparency and accountability in public sector finances and allows for enhanced monitoring of government debt and liabilities for

their true economic implications. Most state Governments in Nigeria, including Oyo State, have adopted IPSASs since 2015 (Ademola, Adegoke, & Oyeleye, 2017; Atuilik & Salia, 2019), but as good as this principle of accounting can be, the entire instruments of control in the public sector seem to have collapsed. Consequently, there are increases in the mismanagement, scandalous embezzlement, extravagance, wastage, misappropriation, contract abandonment, overprizing of goods/service, unpaid salaries, capital flights and all other sorts of corruption (Uguru, 2016; Udu, 2013). Thus, the objective of the public financial management seems to have been defeated owing to the widespread accusation by the public to the fact that Fiscal Control Institutions merely express true and fair view without attempting to conform to prescribed standards, legal requirement and other regulatory framework. Therefore, this paper broadly aims to ascertain the impact of fiscal control institutions on fiscal accountability generally in Nigeria and particularly in Oyo State.

Control of public finance is very important to public governance. That is why power over public finance is enshrined in the Nigerian Constitution. In order to promote financial accountability in Nigeria, power over finance is shared between the Executive, Legislature and the Office of the Auditor General (OAG). Fiscal control institutions and financial accountability is a relatively young sector, having risen in prominence in the last two and a half decades. Experts agree that the evidence base research is limited and underdeveloped (Carter, 2013; McGee & Gaventa, 2011)). Though there is a large and diverse literature on financial accountability that is descriptive or conceptual, but little 'meta-literature' on the impact financial control institutions on financial accountability (McGee & Gaventa, 2010). Furthermore, there are few studies that examine empirically how fiscal control institutions and financial accountability relate and contribute to each other. Also, there are improved metrics to measure fiscal control reforms, but rigorous analysis of the impact of fiscal control institutions remains limited (Khagram et al, 2013). Most studies focus on single cases; a few analysts have synthesised the findings across comparable cases while donor-commissioned reviews scan multiple interventions. In examining accountability, most use qualitative methods; a couple of single-case

studies use alternative methods (such as randomised control trials and methods of statistical control), while cross-country regressions establish correlations with financial and broader developmental outcomes (Carlitz, 2010).

In sum, despite the importance of FCIs, scholars have not closely investigated their impact on financial accountability. So, an inquiry into the way in which FCIs influence financial accountability is needed to ensure that public funds are not mismanaged and are accounted for. Hence, the need for the present study. Therefore, this paper sets out to evaluate the impact of the formal institutions of financial control on financial accountability in Oyo State. Specific objectives of the paper are to:

1. investigate the impact of fiscal control institutions on financial accountability in Oyo State
2. find out whether the Oyo State Auditor-General has significant influence on financial accountability in the state
3. investigate whether financial accountability is significantly influenced by Public Account Committee's oversight

The main research questions in this paper are as follows:

1. Do fiscal control institutions have any impact on financial accountability in Oyo State?
2. Does the Oyo State Auditor-General has significant influence on financial accountability in the state?
3. Is financial accountability significantly influenced by Public Account Committee's oversight?

Research Hypotheses

1. H_{01}: Fiscal control institutions do not have any impact on financial accountability in Oyo State.
2. H_{02}: The Oyo State Auditor-General does not have significant influence on financial accountability in the state.
3. H_{03}: Financial accountability is not significantly influenced by Public Account Committee's oversight.

REVIEW OF LITERATURE

Fiscal Control

Finance occupies a special place in the conduct of government business. Therefore, any financial performance process becomes meaningless if a strategy to control it is not defined and implemented based on objectives consistent with the current state of the company and its upcoming projects. Fiscal control has now become an essential part of any public finance. Hence, it is very important to understand the meaning of fiscal control, its objectives and benefits, and the steps that must be taken if it is to be implemented correctly. The term 'control' has long been recognised as one of the principles of management. Control exists in most human endeavours. Most authorities agree on what constitutes control. Lucey (1996:137) states that control is concerned 'with the efficient use of resources to achieve a previously determined objective, or set of objectives, contained within a plan'. Similarly, Koontz, Donnel and Wiehrick (1980:81) define control as the measurement and correcting of activities of subordinates to assure that events conform to plans. Ekwonu (1996:35) states that control 'is the measurement of the performance of the activities of subordinates in order to make sure that objectives and plans devised to attain them are being accomplished'. All these definitions point to the fact that control exists to ensure that organizational objectives are met through measurement of performance. The control process according to (Koontz et al 1980:722) involves three steps, viz: Establishing standards, measuring performance against these standards and correcting deviations from standards and plans

Public finance, according to Buhari (1993: 66) can be defined as 'a branch of economics concerned with the finance and economic activities of the public sector'. From these definitions, we can state that public finance not just deal with the way government raises money, but also the manner such money is expended with the aim of achieving economic growth. In Nigeria, the Federal government raises money through the following major sources: Petroleum profit tax, Mining, Company income tax, import duties, Export duties, Excise duties, Interest and repayment of loans granted by the government (Buhari, 1993:169). Others include; education tax, value added

tax, pay-as-you-earn, fees and charges, royalties, rent of government property, grants, aids and loans. The money raised through the above sources is expended on the following items: administration, infrastructural services, productive services, defense, interest on internal and external loans, and diplomatic missions (Buhari, 1993:168). In connection with government finance, we can identify two basic groups of control-administrative and financial control; the former referring to those techniques which have indirect bearing upon expenditure operation while the latter denote techniques of control relating to fiscal control. The emphasis of this study is on financial control.

Fiscal control is a very important type of control in the management of government finance. Oshisami (1992:29) defines it as the process which ensures that financial resources are obtained at cost considered to be economical and utilized efficiently and effectively for the attainment of established objectives. A comprehensive definition of financial or fiscal control is given by Ekwonu (1996:33) as the sum total of the work, which guides, directs and interprets the budget cycle. It covers the activities of the Executive branch, involving finance and the ministries… the audit department and the legislature. Fiscal Control has some objectives and benefits, these includes the following:

- Checking that everything is running on the right lines - Sometimes, financial control just checks that everything is running well and that the levels set and objectives proposed at the financial level regarding revenue and expenditure are being met without any significant alterations.
- Detecting errors or areas for improvement - An irregularity in the public finances may jeopardize the achievement of government's general goals, causing it to lose to its stability and in many cases compromising its very survival. Therefore, it is important to detect irregularities quickly.
- Implementing preventive measures - Occasionally, early diagnosis of specific problems detected by financial control institutions makes corrective actions unnecessary, as they are replaced by solely preventive actions.

- Informing the public - Precise knowledge of the state of the nation, including its problems, mistakes and those aspects which are being handled correctly, encourages better communication with public.
- Taking action where necessary - Detecting the situation is of little use without concrete actions to get a negative situation back on track thanks to specific and detailed information provided by finance control (Captio, 2016).

In a democratic era, fiscal control may operate internally and externally. Within the Executive arm of government, control by the finance ministry is internal, while audit by the Auditor-General and legislative oversight constitute external control. The next segment is devoted to discuss the role of Fiscal Control Institutions as regard public financial management. These institutions include Legislature, Auditor-General and the Executive itself.

Financial accountability

Accountability as a concept has numerous definitions which have also undergone changes over time. Defining accountability depends on the background, ideologies, motives and language of our times, as it has specific meanings; for instance, "auditors discuss accountability as a financial matter, political scientists view it as a political imperative and legal scholars as a constitutional arrangement, while philosophers treat accountability as a subset of ethics" (Okpala, 2012: 116). In light of the above, a number of definitions of accountability have been offered from different perspectives. Schlenker (1997) sees accountability as being answerable to audiences for performing up to prescribed standards that are relevant to fulfilling obligations, duties, expectations and other charges. The International Organization of Supreme Audit Institutions (INTOSAI) as quoted in Boncondin (2007) describes financial accountability as the obligation of persons or entities entrusted with public funds to be answerable for the fiscal, managerial and program responsibilities that have been conferred on them and to report to those that have conferred these responsibilities. Equally, Inanga cited in Okpala (2012) views financial accountability as a process in which individuals and organizations are compelled to be answerable for their financial actions and responsibilities.

According to QBSW Consulting (2020), financial accountability is mostly important in public financial management since public sector organizations are held accountable to their constituents, electorate and citizens for collecting and distributing public funds according to budget priorities and for minimum cost. In public sector, accountability requires governments to answer to the citizenry to justify the source and utilization of public resources. This is imperative as the citizenry no doubt, has a right to know, a right to receive openly declared facts and figures which would enable them to debate and decide the fate of their elected representatives. Accordingly, Aucoin & Heintzman (2000) see accountability as a democratic means of monitoring and controlling government conduct which prevents the development of concentration of power and enhancing the learning capacity and effectiveness of public administration. The preceding assertion draws attention to two major significance of accountability (i) democratic control and (ii) checks and balances. From a democratic perspective, it is the basis of any strong democracy as people can call upon any public office holders to account for their stewardship (Mulgan, 2003).

According to Kenton (2020) financial accountability is the responsibility for public funds. It is when an individual, department or organisation experiences consequences for their financial performance or actions. Financial accountability is essential for an organization and for a society. Without it, it is difficult to get people to assume ownership of their own actions because they believe they will not face any consequences. It is the most vital because most policy decisions have financial implications. The basic tenet of fiscal accountability is openness in all financial activities of government and that government only embraces confidentiality in specific circumstances where it is proper to do so. The approach properly safeguards public funds, makes sure they are used economically, efficiently and effectively and accounted for in accordance with the statute that govern their use as well as reporting performance for all stakeholders through clear channels of communication (Sunday & Lawal, 2016; Okpala, 2012).

EMPIRICAL REVIEW

Schick (2002) using a combination of thematic and comparative approach, explored the evolution of legislative control of the budget in a small number of OECD countries; the study found that in dealing with budget and other matters, legislatures face tension between the self-interest of members to promote their careers or to do good for constituents and the collective interest of the institution to produce sound, coherent, legislation. The study concludes mainly by highlighting a decline in parliamentary influence. Meanwhile, some cross-national surveys have shown that the role of legislatures in the public financial management varies greatly between countries (Lienert 2005, Wehner 2006). In addition, a number of legislatures have initiated reforms to strengthen financial scrutiny (Stapenhurst et al. 2008). The survey provides a unique opportunity to assess, for the first time, the budgetary role of African legislatures. Also, in a survey of about twenty-six African countries, including Nigeria, Wehner (2008) seeks to gather information on how central government budget systems function across the various phases of the budget process, from formulation to approval, execution and audit. Thus, in that study, timeliness in the formulation, approval, execution and audit and evaluation was examined. The survey was filled in through an online platform by Ministry of Finance officials in participating countries, and the data gathered on African countries went through a peer review process that involved the CABRI Secretariat, the LSE team and country experts. The role of the executive and the legislatures, fiscal transparency, off-budget spending and Aid management were also examined. He linked the survey results to administrative traditions, reform efforts and political and economic realities. He mentioned areas of transparency and off-budget spending, budget execution and audit procedures and Aid management as areas that need attention.

Jarvis (2015) employs multiple lines of inquiry/evidence including primary and secondary document review, domestic case studies, and two more limited international comparative case studies in comparing Canada, Australia and the Netherlands. The study seeks to understand both how, and for what, individual executive, managerial and working-level public

servants are held to account. Jarvis tested an adapted version of Aucoin & Heintzman's (2000) and Bovens, Schillemans & 't Hart's (2008) respective frameworks on the purposes of accountability. The results suggest that while there is evidence that all four normative purposes of accountability examined: democratic control, assurance, learning and results, are reflected in the actual practice of accountability, practice is wanting in some respect with regard to each of the four.

Ademola (2003) carried out a study on the fund management and control in the state governments of Nigeria, using Ekiti State Government as the case organization, with the objective of finding out whether there is effective fund management and control of the state government fund. The study adopted the survey design using a 21 – item questionnaire. The sample size was 175 respondents drawn from the treasurers, accountants, cashiers and other fund managers in the state. The formulated hypotheses were tested using the Spearman's correlation method. The findings show that there is weak internal control over the state government funds which leads to ineffective fund management; that fund management positively correlated with the procedures and the state government performances. In the study conducted by Olurankinse et al (2008), find that budget as a control for evaluating performance in federal ministries was found to be poor and ineffective. According to Alt, Lassen, & Rose (2006), rigorous analysis of the conditions and consequences associated with fiscal transparency remains surprisingly scarce.

Olatunji (2013) observes that budget is a vital tool for planning and control of natural resources in forest development. In a similar vein, budget in ministries serves as an indicator of performance of services. Budget documents should be used to direct the affairs of an organization via cost reduction methods namely budgetary control and standard costing. Checking every budget spending versus activity traced to it is essential instrument of control that will achieve the desired target of that organization in question. In a study by Kola (2014) it was declared that government budgeted revenues and expenditures for various items required careful tracking and control in order to meet budget targets and make the citizenry well-off.

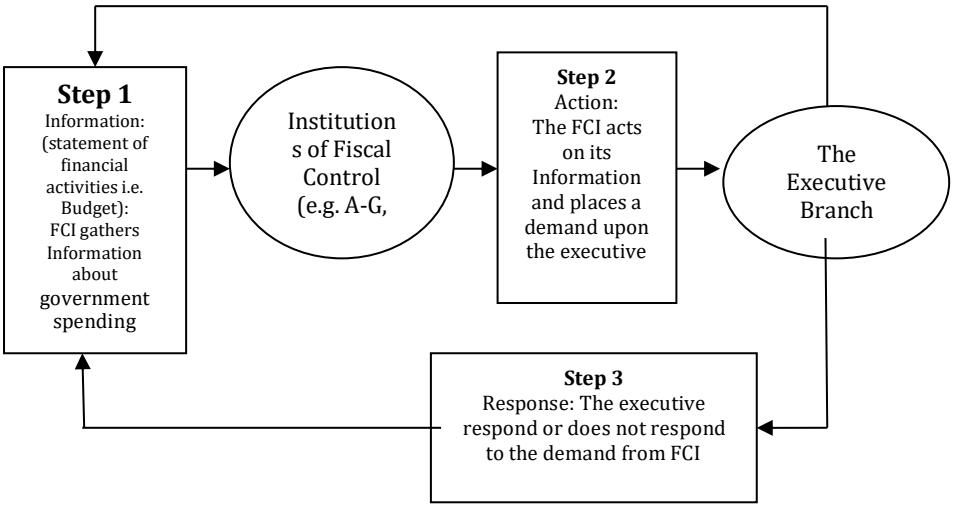
Legislations aimed at Promoting Fiscal Accountability in Nigeria

Apart from the Constitution and other financial laws which prescribe how public funds should be managed, other legislations have also been enacted to help promote transparency and accountability in Nigeria. These legislations include: the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act, 2000; the Code of Conduct Tribunal; the Economic and Financial Crimes Commission (EFCC) Act, 2004; and Due Process Act. All these legislations are designed to enthrone financial accountability in Nigeria. The success or otherwise of these legislations are outside the scope of this research.

Role of Fiscal Control Institutions in Promoting Fiscal Accountability

At the core of the analytical model is a fiscal control cycle set within contextual factors (see figure1 below). The fiscal control cycle is an idealized model of the relationship between an institution of fiscal control (e.g. Legislature) and a unit of the executive branch (e.g. Office of the National Security Adviser). The present chief Executive in Nigeria President Muh'd Buhari provided information to Auditor-General who later forwarded the report to Economic and Financial Crime Commission-EFCC about the financial activities of the former NSA – Dasuki Zambo, the case has since been taken to court to account for his improper behavior in the handling public funds. EFCC itself is an example of Accountability Institution in Nigeria. Figure 1 below is a fiscal control cycle which explains model of the relationship that exists between an FCI and a unit of the Executive branch.

Figure 1: The Fiscal Control cycle: Model of the Relationship between an FCI and the Executive Branch.



Source: *Adapted from the World Bank (2005)*

The Legislature: The 1999 Constitution of the Federal Republic of Nigeria recognises that State Legislatures have power and control over public funds. Section 120 (3) & (4) hold that the State Houses of Assembly are the only organs empowered to authorise withdrawal of money from the consolidated revenue fund of the State except money meant to meet expenditure that is a charge upon the fund by the Constitution. The Legislature is also given power over budgets especially in the area appropriation and approval (sees section 121). To ensure accountability in the management of public funds the 1999 Constitution holds thus:

> *No moneys shall be withdrawn from any public fund of the State, other than the Consolidated Revenue Fund of the State, unless the issue of those moneys has been authorised by a Law of the House of Assembly of the State [Section 120 (3)].*

> *No moneys shall be withdrawn from the Consolidated Revenue Fund of the State or any other public fund of the State except in the manner prescribed by the House of Assembly [Section 120 (4)].*

Similarly, section 123 (1) & (2) empower the legislative arm of government to make laws for the establishment of a contingency fund to meet urgent and unforeseen expenditure which shall be replaced by a supplementary appropriation. Furthermore, section 128 grant the state Houses of Assembly the power to conduct investigation into any matter or thing with respect to which it has power to make laws and the conduct of any person, authority, ministry or government department relating to both financial and non-financial matters. In the exercise of this power, the legislative arm of government shall have power to procure all evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and examine all persons as witnesses whose evidence may be material or relevant to the subject matter {see Section 129 (1)}. Of interest to this research is Parliamentary control of public funds. Parliament is able to exercise this control through a number of instruments, organs and institutions and these include:

(a) Budget - The importance of budget as an instrument of planning is well recognised. In determining whether public funds have been wisely spent, the process starts with the budget. Sahgal (2003:2) opines that budgeting has been the first point of entry. The importance of budget control as a tool of development is now well recognised.

(b) Another instrument of Parliamentary control of public funds is through the operation of the Consolidated Revenue Fund - With legislative approval of the budget and once it has been signed into law, spending can commence from the consolidated revenue fund. Budget approval carries with it, Parliamentary consent to withdraw from the consolidated revenue fund.

(c) Auditor-General Office - This is an institution of fiscal control which serves as an agent of Parliament. The Auditor-General is expected to lay

his report on the accounts examined by him before the Parliament. Unfortunately, the Public Accounts Committee of the State Legislature never met to consider the report of the Auditor General between 2015 and 2017 (Field Survey, July, 2017).

(d) Public Accounts/Petitions Committee: The committee shall consider the subject matter of all petitions referred to it and report their opinions to the house from time to time.

(e) Public Account Committee: A standing committee of the House whose jurisdiction covers budget proposals, conducting continuing studies of the effect on budget outlays of relevant existing and proposed legislation and requesting and evaluating continuing studies of tax expenditures, to devise methods of co-ordinating tax expenditures, policies and programmes with direct budget outlay and to report the results of such studies to the House on a recurring basis.

The above listed instruments of Parliamentary control of public expenditure may have a slight variation between countries with respect to the assigned roles given to committees. However, the basic role of Parliamentary oversight over the public purse is the same.

The Auditor-General: By law, the Auditor-General is an agent of the Legislature. He has the duty of overseeing the management of public funds and the quality and credibility of governments reported financial data. To ensure that the budget is implemented according to legislative approval, the Auditor-General carries out a comprehensive audit of all government financial transactions. Other important activities carry out by the Auditor-General of a state include the following:

- touring areas outside the headquarters for the purpose of his audit.
- facilitating the write-off of lost funds.
- auditing the payment of pensions and gratuities
- addressing queries to accounting officers
- verifying government stores and
- producing an annual report (Okwoli 2004)

In Oyo State, the Auditor-General being the external auditor to government ministries, carries out his audit on an annual basis with exception of salaries which are audited monthly. The staffs of the Auditor-General do not carry out internal audit functions. In Oyo State, internal auditors are drawn from the office of the Accountant-General.

The Treasury/Office of the Accountant-General: Treasury is an office headed by the Accountant-General and is usually part of the ministry of finance. Treasury control of public fund takes the form of overall supervision of the spending of ministries and departments. The objective is to ensure that they conform to the approved estimates and that adequate attention is paid to efficiency in the spending of funds allocated by Parliament. Where spending departments wish to deviate from the policies and programmes approved by Parliament or wish to exceed their votes, they need to secure the approval of finance for the new policies or changes. The Treasury control of public funds is exercised by the office of the Accountant-General. In that the Accountant-General is vested with the duties of:

a. receiving, keeping and disbursement of government funds;
b. recording and reporting of government financial transactions
c. exercising supervisory powers over other ministries in terms of financial matters.
d. investigating cases of fraud, loss of funds, assets and store items

We may say that government accounts serve legislative interest by enthroning the concept of accountability; it provides a framework for purposes of a variety of decision-making and it can be used for evaluating performance. A series of checks and balances exist within the accounting system to ensure effective financial control. Teriba & Oji (1973: 326) explain that there are checks and balances in the accounting system of ministries/departments aimed at ensuring effective financial control. The essence of this financial control system is that book-keeping functions are so allocated that one book-keepers function provides a check on the function of some other book-keepers.

The roles of the Executive arm of Government, the Auditor-General and the Legislature in discharging financial accountability in the public sector

were extensively reviewed. On the basis of the literature reviewed here above. It was observed that there is need to reinforce the institutions of financial control in the public sector, of which Oyo in Nigeria is no exception. It is observed that there is a failure to link the three institutions of financial control namely; the Executive, the legislature and the Auditor General. The absence of these interrelationships in financial control is one of the fundamental areas to be addressed by this research.

METHODOLOGY

The research design that was adopted for this study is 'Descriptive and Survey Research Design'. This is a cross sectional survey research design, which involves the use of questionnaire and oral interview. This method is preferred to other methods because it enables the researcher to solicit information from the research respondents, particularly where the nature of the research makes practical field work necessary. The data used in this paper was obtained from two main sources - primary and secondary sources of data collection. Primary data were collected through the use of questionnaire. The questionnaire was divided into three sections (A, B & C). To cover the role of treasury staff in financial record keeping and reporting, section (A) of the questionnaire was designed and administered for employees in the office of the Accountant-General in Oyo State who are directly involved in accounting duties. To cover the role of State Auditors in promoting financial accountability in the public sector, section (B) of the questionnaire was designed for staff of the Auditor-General in Oyo State. Lastly, Section (C) of the questionnaire was designed for elected legislators. The questions in this section attempted to examine the role of the Legislature in promoting financial accountability in Oyo State. The secondary data for this study was obtained from textbooks, journals, internet browsing and the Ministry of Budget and Planning, Oyo State. For the primary data questionnaire and oral interview were used. The Ministry of Finance was contacted for the list of accounting operating staff. Similarly, the Office of the Auditor-General was also consulted for the list of audit operating staff. The house of assembly was also consulted for the list of house members. From the preliminary survey, the population for the study consists of:

Table 1: Components of the study setting

S/N	Study Setting	Population
1	Accountant-General staff	288
2	Audit operating staff	78
3	House of Assembly Members	32
	Total	**398**

Source: Field Survey, July, 2017

Sample size: Okwandu (2004: 130) recommends the use of Taro Yamane's formula for researchers in determining the sample size from a given population. It was adopted in this study. Taro Yamane's formula is:

$$n = \frac{N}{1+N(e)^2}$$

Where:

n = Desired sample size

N = Population size

e = Level of significance or Accepted error margin or limit (0.05)

1 = Constant value

Using the above formula, the sample size is determined as follow:

$$n = \frac{398}{1+398(0.05)^2}$$

$$n = \frac{398}{1+0.995}$$

$$n = \frac{398}{1.995}$$

$$n = 199.49$$

Therefore, the sample size (n) is rounded up to 200

In this paper, the proportional stratified sampling technique was used to arrive at the number of respondents to be selected from each of the three (3) Financial Control Institutions (FCI) that is, the strata of the population. This was done in proportion to each stratum using the formula below:

$$\frac{n}{N} \times \frac{S}{1}$$

Where:

n = Population of each stratum
N = Total Population
S = Sample size

Using the formula, the sample size for each stratum was worked out below and as shown in Table 2:

$S_1 = \frac{288}{398} \times \frac{200}{1} = \frac{57600}{398} = 145$

$S_2 = \frac{78}{398} \times \frac{200}{1} = \frac{15600}{398} = 39$

$S_3 = \frac{32}{398} \times \frac{200}{1} = \frac{6400}{398} = 16$

Table 2: Proportional Representation (Sample size for each component of the population)

S/N	Components of the Study Setting	Population	Sample Size
1	Accountant-General staff	288	145
2	Audit operating staff	78	39
3	House of Assembly Members	32	16
	Total	**398**	**200**

Source: Field Survey, July, 2017

Being active participants in the managing of public funds, this population, we believe know about the accountability arrangements in the public sector and as such hold important opinion from which this research can benefit tremendously.

Data Analysis Procedure

Data gathered in this study were analysed using simple percentages in areas where we expected significant findings but hypotheses were not formulated. However, to test our hypothesis we made use of chi-square method. The chi-square test is a test of independence between variables. The formula for computing the Chi-Square test is given as shown below:

$\chi^2 = \sum \frac{(Oi-Ei)^2}{Ei}$

Where: O_i = observed frequency for contingency table category in row ί and column j.

E_i = expected frequency for contingency table category in row ί and column j based on the assumption of independence, with n rows and m columns in the contingency table.

Whereby, E_i is calculated as: = $\frac{\text{Total response in rows} \times \text{total column}}{\text{Total response of number of rows and column}}$

The test statistic has a chi-square distribution with (n - 1) (m - 1) degrees of freedom provided that the expected frequencies are 5 or more for all categories.

DATA PRESENTATION, RESULT AND DISCUSION

In this section, responses to items on the questionnaire which was designed and administered to major stakeholders that are involved in public financial control were analyzed. The response rate from data generated in the study are reported using simple percentage based on each component of the study setting as shown in table 3 below.

Table 3: Analysis of Response Rate

Study Setting	Sample Size	Retuned	Not Retuned	Rate Return %
Accountant-General staff	145	137	8	74%
Audit operating staff	39	32	6	17%
House of Assembly Members	16	16	0	9%
Total	**200**	**185**	**14**	**100%**

Source: Field Survey, July, 2017

Hypothesis 1:

H_{01}: Fiscal control institutions do not have any impact on financial accountability in Oyo State.

For hypothesis 1, we used questions 13 & 16 in set 'A' of the questionnaire to generate data for the purpose of our analysis. These questions are distributed as shown in table 4 and 5 below.

Question 13: Impact of FCIs on budgetary control

Alternative	Frequency
Poor	8
Average	46
Good	66
Very Good	17
Total	137

Source: Field Survey, July, 2017

Question 16: Level of budget implementation in your MDA

Alternative	Frequency
1% - 25%	11
26% – 50%	71
51% - 75%	48
76% - 100%	7
Total	137

Source: Field Survey, July, 2017

From the data presented in table 4 and 5 above we can now construct our contingency table as shown in table 6 below:

Table 6: Relationship between FCIs Budgetary control and level of budget implementation

Level of Budget Implementation	Impacts of FCIs in using the Budget to control Public Finance				**Total**
	Poor	**Average**	**Good**	**Very Good**	
1% - 25%	2(0.64) +1.36	3 (3.69) -0.69	5 (5.29)-0.29	1 (1.36)-0.36	**11**
26% – 50%	3 (4.14) -1.14	23(23.83)-0.83	37(34.20) +2.80	8(8.81)- 0.81	**71**
51% - 75%	2 (2.80) -0.80	18 (16.11) +1.89	23 (23.12) -0.12	5(5.95)- 0.95	**48**
76% - 100%	1 (0.40) +0.60	2 (2.35) -0.35	1 (3.37) -2.37	3(0.86) +2.14	**7**
Total	**8**	**46**	**66**	**17**	**137**

Source: Field Survey, July, 2017

The table 6 above represents our Observed Frequencies; the Expected Frequencies can be determined as follow: $E_1 = \frac{CT \times RT}{GT}$

Where: E_1 = Expected Frequency
CT = Colum Total
RT = Row Total
GT = Grand Total

Thus, our expected frequencies are calculated in the same way as for a 2 × 2 contingency table where each cell are obtained by multiplying the two totals common to the cell and dividing by N - total number of observations. So, solving for the upper left-hand cell is $\frac{(8 \times 11)}{137}$ = 0.64. Other expected frequencies are obtained in a similar manner and they are as shown in bracket of each cell in table 6 above.

Therefore, $\chi^2 = \frac{(1.36)^2}{0.64} + \frac{(0.69)^2}{3.69} + \frac{(0.29)^2}{5.29} + \frac{(0.36)^2}{1.36} + \frac{(1.14)^2}{4.14} + \frac{(0.83)^2}{23.83} + \frac{(2.80)^2}{34.20} + \frac{(0.81)^2}{8.81} + \frac{(0.80)^2}{2.80} + \frac{(1.89)^2}{16.11} +$

$\frac{(0.12)^2}{23.12} + \frac{(0.95.)^2}{5.95} + \frac{(0.60)^2}{0.40} + \frac{(0.35)^2}{2.35} + \frac{(2.37)^2}{3.37} + \frac{(2.14)^2}{0.86} = 12.25$

No. of degrees of freedom = (4-1) (4-1) = 9. So, with 9 d.f., χ^2 = 16.919

χ^2 Calculated = 12.25 < χ^2 (@5% Level) = 16.919

Decision Rule:

Since the value of our χ^2 calculated (12.25) is less than the value of χ^2 tabulated (16.919) as shown above, we accept the null hypothesis (H_0) which states that fiscal control institutions do not have any impact on financial accountability in Oyo State. This means that the performance of virtually all fiscal control institutions including the Legislature (through PAC), the Executive (through Accountant General) and the Auditor-General of the State at promoting the financial accountability is very poor and does not have any impact.

Hypothesis 2:

H_{02}: The Oyo State Auditor-General does not have significant influence on financial accountability in the state.

For hypothesis 2, we used questions 13 & 17 in set 'A' of the questionnaire to generate data for the purpose of our analysis. These questions are distributed as shown in table 4 and 5 below.

Table 7: Reliability of financial statements prepared by the Executive

Alternative	Frequency
Highly reliable	5
Moderately reliable	13
Low reliability	9
No reliability	5
Total	32

Source: Field Survey, July, 2017

Table 8: Significance of State Auditor General's Report

Alternative	Frequency
Highly Significant	6
Significant	12
Insignificant	9
Highly Insignificant	5
Total	32

Source: Field Survey, July, 2017

From the data presented in table 7 and 8 above we can now construct our contingency table as shown in table 9 below:

Table 9: Relationship between State Auditor General's Report and the financial statements prepared by the Executive.

Significance of State Auditor General's Report	**Reliability of financial statements prepared by the Executive**				**Total**
	Highly reliance	**Moderately reliance**	**Low reliance**	**No reliance**	
Highly Significant	1 (0.9) +0.1	3 (2.4) +0.6	1 (1.68) -0.68	1 (0.9) +0.1	**6**
Significant	1 (1.87) -0.87	4 (4.88) -0.88	5 (3.38) +1.62	2(1.87) +0.87	**12**
Insignificant	2 (1.41) +0.59	5 (3.66) +1.34	2 (2.53) -0.53	1 (1.41) -0.41	**9**
Highly Insignificant	1 (0.78) +0.22	2 (2.03) -0.03	1 (1.41) -0.41	1 (0.78) +0.22	**5**
Total	**5**	**13**	**9**	**5**	**32**

Source: Field Survey, July, 2017

Thus, our expected frequencies are calculated in the same way as for a 2 × 2 contingency table where each cell are obtained by multiplying the two totals common to the cell and dividing by N - total number of observations.

So, solving for the upper left-hand cell we have $\frac{(5 \times 6)}{33}$ = 0.90. Other expected frequencies are obtained in a similar manner and they are as shown in bracket of each cell in table 9 above.

Therefore, $\chi^2 = \frac{(0.10)^2}{0.93} + \frac{(0.6)^2}{2.4} + \frac{(0.68)^2}{1.68} + \frac{(0.10)^2}{0.90} + \frac{(0.87)^2}{1.87} + \frac{(0.88)^2}{4.88} + \frac{(1.62)^2}{3.38} + \frac{(0.87)^2}{1.87} + \frac{(0.59)^2}{1.41} + \frac{(1.34)^2}{3.66} +$

$\frac{(0.53)^2}{2.53} + \frac{(0.41)^2}{1.41} + \frac{(0.22)^2}{0.78} + \frac{(0.032)^2}{2.03} + \frac{(0.41)^2}{1.41} + \frac{(0.22)^2}{0.78} = 3.38$

No. of degrees of freedom = (4-1) (4-1) = 9. So, with 9 d.f., χ^2 = 16.919

χ^2 Calculated = 2.50 < χ^2 (@5% Level) = 16.919

Decision Rule:

Since the value of our χ^2 calculated (12.25) is less than the value of χ^2 tabulated (16.919) as shown above, we accept the null hypothesis (H_0) which states that the Oyo State Auditor-General does not have significant influence on financial accountability in the state. This means that financial statements prepared by the Executive as well as the Auditor General's report actually have not been able to promote financial accountability.

Hypothesis 3:

H_{03}: Financial accountability is not significantly influenced by Public Account Committee oversight.

The data for this hypothesis were generated using questions 7 and 8 in set "B" of the questionnaires. These questions have the frequency distribution shown in tables 14 and 15. The contingency table (table 16) is derived from tables 14 and 15.Table 10: Performance of the Public Accounts Committee (PAC)

Alternative		Frequency
Very Good		6
Good		8
Average		10
Poor		9
Total		33

Source: Field Survey, July, 2017

Table 11: Influence of PAC on financial accountability

Alternative	Frequency
Positive Influence	15
Negative Influence	11
No Influence	7
Total	33

Source: Field Survey, July, 2017

From the data presented in table 10 and 11 above we can now construct our contingency table as shown in table 12 below:

Table 12: Influence of PAC on Financial Accountability

Influence of PAC on financial accountability	Performance of the Public Accounts Committee (PAC)				**Total**
	Very Good	**Good**	**Average**	**Poor**	
Positive Influence	1 (1.9) -0.9	4 (3.4) +0.61	8 (4.8) +3.2	3 (5.8) -2.8	**16**
Negative Influence	2 (1.6) +0.4	2 (2.8) -0.8	2 (3.9) -1.9	7 (4.7) +2.3	**13**
No Influence	1 (0.5) +05	1 (0.8) +0.2	0 (1.2) -1.2	2 (1.5) +0.5	**4**
Total	**4**	**7**	**10**	**12**	**33**

Source: Field Survey, July, 2017

Thus, our expected frequencies are calculated in the same way as for a 2 × 2 contingency table where each cell are obtained by multiplying the two totals common to the cell and dividing by N - total number of observations. So, solving for the upper left-hand cell we have $\frac{(4 \times 16)}{33}$ = 1.9. Other expected frequencies are obtained in a similar manner and they are as shown in bracket of each cell in table 12 above. A closer look at the expected frequency cells we found that some cells have expected

frequencies of less than 5. We therefore merge such cells to improve on the deficiency of those cells as shown in table 13 below.

Table 13: Influence of PAC on Financial Accountability (Merging deficient cells)

Influence of PAC on financial accountability	Performance of the Public Accounts Committee (PAC)		**Total**
Positive Influence	5 (5.66) -0.66	12 (11.33) +0.67	**17**
Negative/ No Influence	6 (5.31) -0.69	10 (10.56) -0.56	**16**
Total	**11**	**22**	**33**

Source: Field Survey, July, 2017

Having improved on the deficient cells, we compute the chi-square statistics as:

Therefore, $\chi^2 = \frac{(0.66)^2}{5.66} + \frac{(0.67)^2}{11.33} + \frac{(0.69)^2}{5.31} + \frac{(0.56)^2}{10.56} = 7.39$

No. of degrees of freedom = (3-1) (3-1) = 4. So, with 9 d.f., $\chi^2 = 16.919$

χ^2 Calculated = 7.39 < χ^2 (@ 5% Level) =

Decision Rule:

Since the value of our χ^2 calculated (12.25) is less than the value of χ^2 tabulated (16.919) as shown above, we accept the null hypothesis (H_0) which states that financial accountability is not significantly influenced by Public Account Committee oversight. This means that the legislative oversight on public funds which is usually carried out by the Public Account Committee has not been effective and thereby could not promote financial accountability.

Discussion of Findings

The first objective in this paper sought to investigate the impact of fiscal control institutions on financial accountability in Oyo State. The finding in this regard indicates that the fiscal control institutions do not have any

impact on financial accountability in Oyo State. This finding is consistent with the findings of Ahsan (1996) who states that the allocation of money by legislatures in many countries who follow an incremental budgeting process, has gradually become a routine and unproductive exercise. This means that the budget has ceased to be an instrument of legislative control. This finding is also in agreement with the finding of Krafchick & Wehner (2002) who in an earlier research revealed that once the budget has been approved, funds are shifted to items not budgeted for. Thus, the annual budget is only used to get approval for funds, and once the approval has been obtained, funds are expended on items not included in the budget. In other words, all internal and external controls on the public funds do not determine the pattern of expenditure. Virtually, all the sampled research subjects responded to this question. All of them maintained that the Executive does not implement the budget according to legislative approval. However, this finding is not consistent with the findings of Ríos, Bastida & Benit, (2014) who argue that enhanced legislative budgetary oversight leads to deeper government accountability and greater transparency in public finances management.

The second objective aimed to find out whether the Oyo State Auditor-General has significant influence on financial accountability in the state. The finding in this regard indicated that the Oyo State Auditor-General has no significant influence on financial accountability in the state. This finding is supported by the major finding of Ibietan (2013: 46) who posits that though "there are internal and external mechanisms plus other options of upholding financial accountability in the Nigerian Public life, but they are either weak or outrightly ineffective." This is due mainly to lack of political will in releasing relevant information to the AG even despite the adoption and implementation of International Public Sector Accounting Standards (IPSASs), which is said to be capable of promoting greater financial accountability in public sector. However, this finding is not consistent with the findings of Ndinaiwe (2013), who argues that the transition to IPSAS and the presentation of accrual based financial statement has a significant impact on fiscal transparency and accountability.

The third objective was to investigate whether financial accountability is significantly influenced by Public Account Committee's oversight. The finding in that regard indicates that financial accountability actually is not significant influenced by Public Account Committee's oversight in Oyo State. In fact, as it was previously mentioned, the survey revealed that the Public Accounts Committee of the Oyo State Legislature never met to consider the report of the Auditor General between 2015 and 2017. This finding is consistent with the findings of Umar & Aliyu (2018) who found that the low performance of the PACs in Yobe State was due to apparent delays in tabling reports and absence of opposition chairperson thus, causing the PACs ineffectiveness in promoting financial accountability.

Conclusion

This paper sought to evaluate the impact of Fiscal Control Institutions (FCIs) on financial accountability in Oyo State, Nigeria. The need to achieve financial accountability in Nigerian public sector cannot be overemphasized. This is especially important considering the fact that corruption has been the bane of national development. The result of the study showed that Fiscal Control Institutions actually were not effective in discharging their constitutional responsibility as regards financial accountability in the State. According to findings from this paper, one notable factor for this is the inability of the State Legislature and its agents, especially Public Account Committees (PACs) and the Office of the Auditor General to ensure compliance with fiscal rules in public financial management.

Recommendations

Based on the findings of the study, the following recommendations were made:

- Deliberate attempts should be made to ensure that these fiscal control institutions such as PAC, Auditor-General's Office etc. are built on sound ethical values and orientations, their operators should

be made to go through and imbibe enduring moral training and virtues that can be passed on to future generations in order to guarantee accountability of public funds.

- In recognition of the importance and influence of Public Account Committee's oversight on financial accountability, the Oyo State House of Assembly (OYHA) should immediately prioritize the modernization of the State Auditor-General's Office and the PAC Secretariat should be reorganized.
- Timely availability of public budgets to the legislature, and there should be an improvement on the timeliness of submission and publication of the audit reports.
- Protection of the Auditor-General's independence by way of legislation or strong tradition and his unrestricted access to information it needs to do his audit work

References

Ademola, A.O., Adegoke, K.A. & Oyeleye, O.A. (2017). Impact of International Public Sector Accounting Standards Adoption on Financial Accountability in Selected Local Governments of Oyo State, Nigeria. *Asian Journal of Economics, Business and Accounting*, 3(2): 1-9.

Ademola, O. (2003). Empirical Study on Fund Management and Control: A Study of Ekiti State. *An Unpublished M.Sc Dissertation in the Department of Accountancy,* Ekiti State University, Ado-Ekiti. 83 P.

Ahsan, M. N. (1996). Governance and the Legislative Audit Function‖. *Public Fund Digest*, (VII) (1). Washington DC: International Consortium on Government Financial Management.

Alt, J. E., Lassen, D. D. & Rose, S. (2006). The Causes of Fiscal Transparency: Evidence from the U.S. States. *IMF Staff Papers*, 53 (special issue): 30–57.

Atuilik, W.A. & Salia, H. (2019). Impact of IPSAS adoption on transparency and accountability in managing public funds in developing countries: Evidence from Liberia. *Journal of Accounting and Taxation*, 11(6): 99-110

Aucoin, P. & Heintzman, R. (2000). The Dialectics of Accountability for Performance in Public Management reform. *International Review of Administrative Sciences*, 66(1):45–55.

Augustine, E.A. (2012). Accountability and financial reporting in Nigeria public financial management: an empirical exploration. *Knowledge Review Volume* 26(3): 36-44

Boncondin E. T. (2007). *Citizen Engagement in Budgeting and Republic Accountability*. Paper presented at the 6th Session of the United

Nations Committee of Expert on Public Administration, United Nations HQs, New York, 10-14 April.

Bovens, M., T. Schillemans & P. 't Hart. (2008). Does Public Accountability Work? An Assessment Tool. *Public Administration*, 86(1): 22–242.

Captio, (2016). Financial control: definition, objectives and implementation. Retrieved from *http://www.captio.com/blog/financial-control-definition-objectives-and-implementation* on 28/09/2020

Carlitz, R. (2010). *Review of Impact and Effectiveness of Transparency and Accountability Initiatives: Annex 2 Budget Processes.* Prepared for the Transparency and Accountability Initiative Workshop October 14 – 15, 2010. Institute of Development Studies. *http://www.ids.ac.uk/files/ dmfile/IETAAnnex2BudgetProcessesCarlitzFinal28Oct2010.pdf* 28/09/2020

Ibietan, J. (2013). Corruption and Public Accountability in the Nigerian Public Sector: Interrogating the Omission. *European Journal of Business and Management*, 5(15): 41-48

Jarvis,l M. D. (2015). The Black Box of Bureaucracy: Interrogating Accountability in the Public Service. Australian Journal of Public Administration, 73(4): 450–466.

Kenton, W. (2020). Accountability. Retrieved from *https://www.investopedia.com/terms/a/ accountability.asp on* 28/09/2020

Khagram, S., Fung, A. & de Renzio, P. (Eds.) (2013). *Open budgets: The political economy of transparency, participation, and accountability.* Washington D.C.: Brookings Institution Press. http://www.brookings.edu/research/books/2013/openbudgets

Kola, G. (2014). *Budget monitoring and Tracking*. Lagos: Center for constitutional Governance.

Krafchik, W and Wehner, J. (2003). Legislatures and Budget Oversight. Retrieved from *http://www.internalbudget.org* on 28/09/2020

Lienert, I. (2005). Who Controls the Budget: The Legislature or the Executive? IMF Working Paper WP/05/115. Washington, D.C., International Monetary Fund.

McGee, R. and Gaventa, J. (2010). *Synthesis report. Review of impact and effectiveness of transparency and accountability initiatives*. London: Open Society Foundation.

McGee, R. and Gaventa, J. (2011). *Shifting Power? Assessing the Impact of Transparency and Accountability Initiatives.* IDS Working Paper Volume 2011 No 383. Brighton: Institute of Development Studies.

Mulgan, R. (2003). *Holding Power to Account: Accountability in Modern Democracies*, Basingstoke: Palgrave MacMillan

Ndinaiwe, H. (2013). *Impact of IPSAS on auditors and internal control system*. A paper presented at training workshop on adoption of IPSAs in Nigeria at Port-Harcourt

Okpala, K. (2012). Fiscal Accountability dilemma in Nigeria Public Sector: A warning model for economic retrogression. *Research Journal of Finance and Accountability* 3(6):113-119.

Okwoli, A. A. (2004): "Towards Probity, Accountability, and Transparency in Revenue Generation in the Nigerian Public Sector. *Nigerian Journal of Accounting Research,* 1(1): 1-9.

Oladoyin, A. M., Elumilade, D. O. & Ashaolu, T. O. (2005). Transparency, accountability and ethical violations in financial institutions in Nigeria. *Journal of Social Sciences*, 11(1): 21-28.

Olurankinse, F., Yabugbe, P.O. and Ibadir, L.A. (2008). Budget as a tool for control and performance evaluation in the Public sector. *Journal of Research in National Development*, 6(2)

Premchand, A. (2001). Fiscal transparency and accountability: idea and reality. *Paper prepared for the workshop on Financial Management and Accountability*, Rome, Nov 28-30.

QBSW Consulting (2020). Financial Management and Accountability. Retrieved from *http://www.state-treasury.com/financial-accountability-and-management* on 28/09/2020

Ríos, A.-M., Bastida, F., and Benit, B. (2014). Budget Transparency and Legislative Budgetary Oversight: An International Approach. *The American Review of Public Administration*. doi:10.1177/0275074014565020

Schick, A. (2002). Can National Legislatures regain an effective voice in budget policy? *OECD Journal on Budgeting*, 1(3): 15–42.

Sunday, O. & Lawal, T. (2016). Fiscal Accountability, Resource Management and Sustainable Development in Nigeria. *International Journal of Academic Research in Business and Social Sciences*, 6 (5): 29 – 40

Ugoh, S. C. and Ukpere, W. I. (2009). Problems and prospects of budgeting and budget implementation in Local Government System in Nigeria. African Journal of Business Management, 3 (12): 836-846. Retrieved from *http://www.academicjournals.org/ajbm* on 28/09/2020

Umar, I. & Aliyu, Y. (2018). The performance and challenges of Public Accounts Committees (PAC) in Nigeria: A Case of Yobe State. Retrieved *from https://www.researchgate.net/publication/ 330002663* on 28/09/2020

Wehner, J. (2006). Assessing the Power of the Purse: An Index of Legislative Budget Institutions. *Political Studies,* 54(4): 767–785.

Wehner, J. (2008). Budget practices and procedures in Africa. Collaborative Africa Budget Reform Initiative and African Development Bank. Pretoria: COMPRESS.dsl. Retrieved from *www.compressdsl.com* on 28/09/2020

World Bank (2005). *Report of the task force on capacity development in Africa*. Washington, DC: World Bank.

GOVERNANCE AND LEADERSHIP AND THE POLITICAL AND ECONOMIC DEVEOPMENT OF RWANDA UNDER PAUL KAGAME: AN ANALYSIS

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ABSTRACT

The importance of good governance and leadership in the political and economic development of any society cannot be overemphasized and this is clearly demonstrated in Rwanda under Paul Kagame. Anchoring the study on Contingency Theory and relying on secondary data –data from journal articles, textbooks, among others, it was revealed that Rwanda, before the eclipse of Kagame on the political space, has long been plagued by weak governance based on dictatorship, fear politics, segregation, and isolation of the people from their own country's government. However

serious progress has been made since Kagame became the President of the country. The economy has advanced, with per-capita GDP (purchasing power parity) anticipated to reach $2,214 in 2020, up from $631 in 2000. The annual increase averaged 7% per year between 2000 and 2020. Youth education is a top priority in Rwanda, where 17% of its annual budget is allocated to education. Findings also show that Rwanda has the highest percentage of female representation in the government of any country on the planet. In 2017 for example, 49 women were elected to the lower house of parliament, accounting for more than half of its 80 members among other achievements. Despite these accomplishments, some political and social issues remain unresolved like the crisis in neighboring Congo, as well the government's persistent support for armed rebels, while human rights violations and the persecution of opposition leaders continue. To address these issues, the government should do more to protect minority rights, end repression of the press and political opponents, and increase investment in education, health care, and infrastructure.

Keywords: Development, Economic Governance, Political, Leadership

1.1 Introduction

After the dark days of the Rwandan genocide, Rwanda has undergone significant progress. The Rwandan Civil War/Genocide was a large-scale civil war in Rwanda that lasted from October 1, 1990, to July 18, 1994, and was fought between the Rwandan Armed Forces, who represented the country's government, and the rebel Rwandan Patriotic Front (RPF). The Rwandan conflict evolved from a long-running conflict between the Hutu and Tutsi ethnic groups. Over 336,000 Tutsi were forced to seek asylum in neighbouring countries after a 1959–1962 revolution replaced the Tutsi monarchy with a Hutu-led republic. In Uganda, a number of these exiles formed the Rwandan Patriotic Front (RPF), which by the late 1980s had grown into a battle-ready force under the command of Fred Rwigyema and Paul Kagame(Mamdani, 2002).

On October 1, 1990, the RPF invaded north-eastern Rwanda, moving 60 kilometers (37 miles) into the country. On the second day, they were dealt a devastating blow when Rwigyema was slain in battle. By the end of October, the Rwandan Army, assisted by French soldiers, had gained the upper hand, and the RPF had been largely annihilated. The RPF initiated a guerilla war that lasted until mid-1992, with neither side gaining an advantage. Despite disruption and massacres by Hutu civilians, an extreme element opposed to any compromise, and a new RPF attack in early 1993, Rwandan President Juvénal Habyarimana was obliged to start peace talks with the RPF and domestic opposition parties. The Arusha Accords, signed in August, successfully finished the negotiations.

Following that, there was an uneasy peace, during which the conditions of the agreements were progressively enforced. RPF forces were stationed in a Kigali facility, and the United Nations Assistance Mission for Rwanda (UNAMIR) was dispatched to the nation to maintain peace. The Hutu Power movement, on the other hand, was slowly gaining clout and plotting a "final solution" to destroy the Tutsis. Following the killing of President

Habyarimana on April 6, 1994, this strategy was implemented. The Rwandan genocide murdered between 500,000 and 1,000,000 Tutsi and moderate Hutu over the period of around a hundred days. The civil war was promptly renewed by the RPF. They progressively gained land, surrounding cities and cutting off supply lines. They had encircled the city, Kigali, by mid-June and took it on July 4th. Later that month, the RPF took the interim government's last region, forcing the temporary government and genocidaires into Zaire (Prunier, 1999).

With Paul Kagame as de facto leader, the victorious RPF took control of the country. From 1994 until 2000, Kagame served as vice president and then as president. The RPF launched a program of reconstructing the country's infrastructure and economy, as well as bringing genocide offenders to justice and fostering Hutu-Tusi peace. In 1996, the Rwandan government, headed by the RPF, started an attack against refugee camps in Zaire, which housed exiled former regime leaders and millions of Hutu refugees (Kimenyi, 2021). This attack kicked off the First Congo War, which saw long-time tyrant Mobutu Sese Seko deposed. Kagame and the RPF are still Rwanda's most so

It is noteworthy that since the time Kagame emerged as the President, Rwanda through his good governance and purposeful leadership, has made some progress– economically, politically, among other areas. It is against this background that this paper is written to analyse this progress. In other words, the study aims at examining the political and economic progress made in Rwanda courtesy of good governance and leadership under the administration of Paul Kagame.

1.2 Conceptual Issues

i. Governance:

Governance has different definitions, and points of view that have been expressed by diverse scholars. According to the World Bank Institute's home page, "government consists of the traditions and structures through

which authority in a country is exercised." This encompasses the process of selecting, monitoring, and replacing governments; the government's ability to devise and implement sound policies; and the people's and the state's respect for the institutions that control economic and social relations among them. The Mo Ibrahim Foundation defines governance as "providing the political, social, and economic public goods and services that every citizen has the right to demand from his or her state, and that a state has the obligation to provide to its citizens."

From the aforementioned definitions of governance, we may deduce that it simply involves exerting authority to preserve order and provide for the fundamental requirements of citizens within a limited range. The goal of governance is to use the power of various institutions and relationships to lead, steer, and control citizens' activities in order to promote the public good. Governance refers to the process of political administration, which includes the normative underpinning of political power, techniques to deal with political problems, and the management of public resources in terms of political science. It emphasizes the function of political authority in preserving social order as well as the exercise of administrative power in a specified realm (Fudan Journal of the Humanities and Social Sciences: 2018). For the Mo Ibrahim Foundation, IDA, AsDB, AfDB, UNDP, and WGIs, different pillars of governance are promoted, but common indicators are agreed upon, such as safety and rule of law, participation and human rights, sustainable economic opportunity, and human development, accountability, transparency, rule of law, predictability, voice, and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law, and corruption control. The World Bank, the United Nations Development Programme, and other international institutions have agreed on principles or indicators of good governance that are quite similar to the ones outlined above. Participation, rule of law, openness, responsiveness, consensus-oriented, equity and inclusion, effectiveness and efficiency, and accountability are the most frequent and well-known internationally.

ii. Leadership

Leadership is an influencing technique that allows managers to persuade their employees to accomplish what has to be done and to do it well. The process of influencing the activities of an organized group toward goal attainment is characterized as leadership.

Leadership is interpersonal influence used in a situation and directed toward the achievement of a certain objective or goals through the communication process. We may deduce from the aforementioned definitions that leadership is neither a person nor a position. It is a complicated moral relationship between people based on trust, duty, commitment, emotion, and a shared vision of what is good, or the art of persuading others to perform at their best in order to achieve any task, purpose, or goal. According to Afegbua, Salami Issa, Adejuwom, Kehinde David(2012). leadership is defined as the ability to turn a vision into reality (Leadership, according to Hersey (1984:14), is any Endeavor to influence the behavior of another individual or group. What counts as leadership is what you do: The role of leaders is the topic of this definitional thread. Leadership is defined by how you collaborate with others: Collaboration is emphasized in this definitional theme. Leaders and followers have joint goals and collaborate as partners to achieve them (Poulin., 2007).

1.3. Theoretical Framework

In this work, the contingency theory of leadership was adopted to explain how exemplary leadership can transform a society. This theory explained Rwanda's political, economic, and social transition, particularly after the civil war and genocide that lasted from 1990 to 1994. According to the contingency theory of leadership, the efficacy of a leader is decided by whether or not their leadership style is appropriate for the circumstances. This viewpoint holds that a person might be an exceptional leader in one context but ineffective in another. This theory contends that, in order to improve your chances of being a successful leader, you should be able to analyse each situation and determine whether or not your leadership style

is appropriate. Self-awareness, objectivity, and flexibility are all required in most situations. The contingency theory is also useful since it broadens our knowledge of leadership by convincing people to examine the diverse effects of conditions on leaders (Northouse,2007).

The contingency leadership paradigm of Fred Fielder

The contingency model of leadership developed by Fred Fiedler is centered on a contingency model of leadership in companies. This model depicts the link between leadership style and the situation's favourableness. The Least Preferred Co-worker is a statistic devised by Fielder to assess a leader's style. Fiedler defined situational favourableness in terms of three experimentally derived dimensions:

i. Leader-member connection---high if the leader is well-liked and respected by his or her subordinates.
ii. Work structure—high if the task is extremely well-structured.
iii. Leader's position power – high if the leader's position carries a lot of official authority and power.

If all three of these dimensions are high, the situation is advantageous to the leader (Fiedler, 1993).

Rwanda needs to be rebuilt after the genocide there. During and after the conflict, many individuals left the nation to escape political and social unrest. Despite the political turmoil, the country had lofty restoration goals. Various government-led efforts have succeeded in altering the political and social climate in the country. Rwanda's economy had risen to become one of Central Africa's most dynamic. Despite the fact that the majority of the population is impoverished, the government has managed to lower poverty rates. Between 2005 and 2010, the poverty rate dropped from 57% to 45%. Although the decrease is minor, it shows that Rwanda's tactics were successful. Rwanda has also made progress in decreasing gender disparities, with women making up approximately 64% of the Rwandan Parliament. "Never Again" was used as a catchphrase. A lack of access to

critical resources, as well as countless injustices, led to the genocide. As a result, people have focused their efforts on reducing economic suffering, social unrest, and political and economic dependence on affluent countries. The country's political leadership says that the country can rise beyond poverty by concentrating on transformational leadership to provide a framework and overall direction. Long-term thinkers in government have reacted. Rwanda has modeled itself after Mauritius and Singapore, two successful countries. Both, like Rwanda, are small countries with limited natural resources that have successfully changed their economies. In the year 2000, Rwandan President Paul Kagame launched Vision 2020, a government-led growth plan. Its main objective is to transform Rwanda into a middle-income nation based on knowledge, reducing poverty and health problems while also uniting and democratizing the country. By 2020, the country will have achieved good governance, an efficient state, skilled human capital gained via education, health, and information technology, a robust private sector, world-class physical infrastructure, and modern agriculture and cattle (Gumusluoglu and Ilsev; 2006).

1.4 The Reconciliation Process after the War

Umuganda was one of the key objectives of the Rwandan government under President Paul Kagame. Umuganda is a self-help and cooperative culture in which communities band together to assist one another in rebuilding. After a terrible clash between the two ethnic groups, Umuganda was an attempt at reconciliation. This strategy proved successful in reuniting communities and revitalizing the entire country.

The National Unity and Reconciliation Commission was another strategy devised by the administration. This group was in charge of producing reports on how well individuals got along with one another. President Paul Kagame's plan to outlaw "genocidal ideology" and any hate speech includes this initiative. It also succeeded in bringing the communities together and allowing them to move ahead from their difficult history. Many more schemes were launched in an attempt to bring the country ahead by establishing political and government stability, as well as social and

economic stability. Its "amazing improvements" in the production of coffee and tea have lifted many people out of poverty while simultaneously improving the economy. While issues persist, Rwanda is striving steadily but effectively to achieve complete stability and put the Rwandan Genocide behind it (Whewell, 2010).

1.5 Governance and Leadership and the Political and Economic Development of Rwanda

i. Economic Progress under Paul Kagame

Under Kagame's leadership, Rwanda's economy has advanced, with per-capita GDP (purchasing power parity) anticipated to reach $2,214 in 2020, up from $631 in 2000. The annual increase averaged 7% per year between 2000 and 2020. Kagame's economic plan focuses on liberalizing the economy, reducing red tape for businesses, and transforming the country from an agrarian to a knowledge-based economy (Reyntjens,2013). Kagame had stated that Rwanda can emulate Singapore's economic achievements since 1960, and achieving middle-income status is one of the key goals of the Vision 2020 program. Internationally, the country is known for its well-functioning institutions and low levels of corruption (Thomson,2011).

Rwanda has limited natural resources, and its economy is mainly reliant on subsistence agriculture, with an estimated 90% of the working population involved in agriculture. The service industry has thrived under Kagame's administration (CIA World Fact Book, 2012). It surpassed agriculture as the country's largest economic sector in 2010, accounting for 43.6 percent of GDP. Banking and finance, wholesale and retail commerce, hotels and restaurants, transportation, storage, communication, insurance, real estate, business services, and public administration, including education and health, are all important tertiary contributors. Vision 2020 prioritizes information and communications technology (ICT), with the objective of converting Rwanda into an ICT center for Africa (Birakwate, 2012) (CIA World Fact Book, 2012). For that purpose, the government has finished a

2,300-kilometer (1,400-mile) fiber-optic telecommunications network that will enable broadband services and electronic commerce. Tourism is one of the country's fastest-growing economic resources, having overtaken agriculture as the biggest source of foreign cash in 2011. The World Bank's ease of doing business index places Rwanda high in numerous areas. Kagame established a dedicated unit to assess the economy and suggest remedies to ease business in 2005, after the country was placed 158th on the Ease of Doing Business Index. As a result, in 2009, the country ranked first among reformers. In 2012, the country ranked 52nd out of 185 countries in the global ease of doing business index, and third out of 46 in Sub-Saharan Africa. The Rwanda Development Board claims that a firm may be authorized and registered in 24 hours, which places it seventh in the 2012 rankings for ease of starting a business (Reuters, (III) 2011). Rwanda's business climate and economy benefit from the country's minimal corruption; in 2010, Transparency International classified Rwanda as the eighth cleanest country in Sub-Saharan Africa and the sixty-sixth cleanest in the world.

Although Rwanda has also illegally exploited Congolese resources, which are vital to the country's economic well-being. Politics and economics are two different things. Illicit resource mining in the DRC contributed to 6.1 percent of Rwanda's GDP in 1999, according to Stefaan Marysse. In 2013, foreign aid accounted for about half of the budget and over 20% of GDP. The fruits of economic progress have disproportionately benefited the capital's elites, while rural areas have lagged behind. Although the government professes to have a privatization policy, it has really expanded state control over the economy through cooperating with businesses with close ties to the government and governing party (Grant, 2010).

ii. Education and Health

Kagame's government has made youth education a top priority, allocating 17% of its annual budget to the cause. The Rwandan government provides free education for twelve years in state-run schools: six years in elementary school and six years in secondary school. Following a promise made by

Kagame during his 2010 re-election campaign, the remaining three years of free education were implemented in 2012. Kagame attributes advances in tertiary education to his leadership; the number of institutions has expanded from one in 1994 to 29 in 2010, and the tertiary gross enrolment ratio has climbed from 4% in 2008 to 7% in 2011(World Bank, 2012).

From 1994 to 2009, secondary education was given in either French or English; since 2009, due to the country's growing relations with the East African Community and the Commonwealth of Nations, English has been the exclusive medium of teaching in public schools, beginning in primary school grade four. In 2009, the country's literacy rate, defined as those who can read and write at the age of 15, was 71 percent, up from 38 percent in 1978 and 58 percent in 1991 (McGreal, 2009)

Disease, such as malaria, pneumonia, and HIV/AIDS, dominate Rwanda's health profile. However, illness prevalence and death rates have decreased dramatically over the last decade, disease treatment continues to be hampered by a lack of supply or unavailability of key medicines. As one of the Vision 2020 initiatives, Kagame's administration is working to address the situation. (World Health Organization (I) 2009, p.5) It has increased funding, with health spending rising from 3.2 percent of total national spending in 1996 to 9.7 percent in 2008.It also established training institutes, such as the Kigali Health Institute (KHI), and passed legislation in 2008 making health insurance mandatory for all citizens; by 2010, almost 90% of the population was insured. During Kagame's leadership, these measures have contributed to a steady growth in healthcare quality and improvements in important indices. In 2010, 91 children died before reaching the age of five for every 1000 live births, down from 163 fatalities before the age of five for every thousand live births in 1990. Some illnesses are becoming less common, such as maternal and neonatal tetanus eradication and a significant decrease in malaria morbidity, death, and particular lethality (Kigali Health Institute, 2012). In 2011, the Rwandan government announced an eight-year US $151.8 million project to train medical professionals in response to a dearth of competent people.

Kagame has received plaudits for Rwanda's reaction to the worldwide COVID-19 outbreak, which is still ongoing. Rwanda has one of the lowest infection and death rates in the world, despite having a relatively poor healthcare system, and is regarded as a success story (Bariyo, 2020). Rwanda's citizens are now the only African country whose citizens are allowed to travel throughout the Schengen Area for non-essential purposes. Rwanda's response has been criticized, particularly for restricting civil rights and individual freedoms (Beaubien, 2020).

iii. Women's participation in Politics

Rwanda has the highest percentage of female representation in the government of any country on the planet. In 2017, 49 women were elected to the lower house of parliament, accounting for more than half of its 80 members, while ten women were elected to the upper chamber, which has 26 seats. The Rwandan genocide in 1994 resulted in a high number of women in government, and the country has made great progress since then. Rwanda's genocide caused a shift in gender representation because, once the bloodshed stopped, women made up 70% of the surviving population. This was due to the genocide's habit of murdering males and leaving women to live as sex slaves. Not only did the increased gender imbalance result in a rise in women's involvement in government, but the country also implemented quotas requiring women to make up 30% of candidates for public office. It's worth noting that the Rwandan government chose candidate quotas in political parties over seat reservations in parliament to enhance women's participation in government. According to research published in Perspective on Politics by Mala Htun, "Women and men belong to all political parties." Members of ethnic groupings, on the other hand, typically belong to one exclusively. The Rwandan government acknowledges the nonpartisan character of women in government by employing quotas. Because political parties are a cross-cutting group, and women have an active political presence across the political spectrum, the most effective method to increase their participation in government is to encourage their representation inside political parties. This strategic

approach to enhancing women's involvement in the Rwandan government has resulted in record-breaking numbers of Rwandan women participating in political life and establishing positive models for young girls across the country (Alina Patrick;2019).

Rwanda is an excellent setting for studying women's engagement in post-conflict transitional justice and reconstruction efforts. Since the genocide and civil war ended in 1994, a variety of measures have been put in place to make it easier for women to participate in politics, including election quotas, women-specific political organizations, and legal amendments to formalize women's rights. These policies appear to have had an impact, as women were elected to political office in record numbers in the 2013 elections, accounting for 51, or over 64 percent, of Rwanda's parliamentary seats. The purpose of post-conflict peace and state building is to increase women's involvement in public life. Women are increasingly being included in peace negotiations, transitional justice procedures, and post-conflict changes to political processes and public administration, as evidenced by a growing number of international policies and programming. Rwanda exemplifies some of the finest gender-equality reform approaches advocated by international organizations, while also serving as a cautionary story about how success is defined and assessed.

Rwandan women, who made up 70% of the population after the genocide, became household leaders, taking on chores typically performed by males, such as operating farms and restoring destroyed houses, all while feeding and providing for several dependents (p. 569). (Burnet 2012). Women fulfilled many of these duties while suffering from serious health problems and living in terrible poverty. The transitional administration adopted many adjustments to enhance women's legal and social standing in the first nine years after the genocide (1994–2003). These reforms, which are much too many to discuss here in detail, focused on the official legal recognition of women as citizens with certain rights, as well as improvements to political and administrative institutions. For example, the Matrimonial Regimes, Liberalities, and Successions Act2 (the "Inheritance Law"), which was

approved in November 1999, allowed Rwandan women to contract, have employment and bank accounts, and own and inherit property (Burnet 2008, 376–377; Katengwa 2010, 75). The Ministry of Gender, Family, and Social Affairs (MIGEGASO, later renamed the Ministry of Gender and Women in Development [MIGEPROF]) was founded with the goal of "integrating gender analytical frameworks into all policies and legislation," as well as "educating and promoting those frameworks at all levels of government" (Burnet 2008, 367–368). The new Rwandan Constitution of 2003, which included electoral quotas, has become a symbol of Rwanda's dedication to women's rights. The 2003 Constitution's preamble formally recognizes equal rights for men and women, reserving 30% of all elected positions in official bodies such as the Cabinet, Parliament, and District Councils for women, as well as twenty-four indirect elected seats in Parliament (or the Chamber of Deputies) for women (Abbott and Rucogoza 2011).The Gender Monitoring Office is established by Article 185 of the Constitution to achieve "gender equality and complementarity" via impartial monitoring of public policy and administration. Women's capacity in public office is bolstered in a variety of ways, including "women's councils," which aim to "promote women's interests in development, advise local governance structures on women's issues, and teach women how to participate in politics" (Burnet 2008, 368), and the Forum for Women Parliamentarians, which provides support to women in elected office (Katengwa 2010). In terms of politics, RPF leader and Rwandan President Paul Kagame is considered to directly support the advancement of women's status in Rwanda, giving women's rights political clout.

iv. Rwanda's Role in Regional Security

Regional Safety and Security Rwanda is Africa's leading supplier of peacekeeping troops, and UN officials and funders admire its military expertise and devotion to civilian safety. As part of a package of AU institutional changes that he spearheaded in 2016, President Kagame has worked to strengthen the financial viability of African-led stabilization

operations. Rwanda has also intervened militarily in the DRC in the past, and is said to have offered support to rebel groups in the DRC and Burundi on several occasions. Its objectives may reflect national security concerns (e.g., a desire to combat DRC-based armed organizations led by people complicit in the 1994 genocide), ethnic solidarity (with Burundi's Tutsi minority and communities of Rwandan heritage in the DRC), and/or economic goals (e.g., involvement in resource smuggling in the DRC). (2009, Thomas and Turner).

After U.N. sanctions inspectors concluded that Rwanda was backing a DRC-based rebel organization known as the M23, Rwanda faced worldwide censure and donor funding cuts, especially from the United States and European nations.

Since Rwanda's troops first moved into the area in 1996, a variety of Rwandan-backed rebel groups have been active in eastern DRC. After an apparent decline in Rwandan aid, the M23 surrendered defeat in late 2013. Reports in 2015 and 2016 revealed Rwandan recruiting and training of Burundian refugees for a Burundi revolt, eliciting increased condemnation. Since then, Rwanda looks to have been less involved in regional crises, and DRC President Felix Tshisekedi has worked to improve relations with Rwanda since taking office in 2019. Rwanda refuted allegations made by UN sanctions inspectors in late 2020 that the Rwandan military had conducted operations in eastern DRC during the year, including some coordinated actions with Congolese troops. These actions, according to the investigators, were a breach of the DRC's UN sanctions system, which forbids the providing of weaponry or military aid without prior notice. Relations between Rwanda, the Democratic Republic of the Congo, Uganda, and Burundi are still tense, with militia warfare and illegal resource exploitation serving as flashpoints. (Document S/2020/1283, United Nations, December 23, 2020).

Anti-government rebels from the Democratic Republic of the Congo's March 23 (M23) Movement, generally believed to have had Rwandan backing, during the conquest of Goma, the province capital in North Kivu,

in November 2012. When Kagame took office in 2000, the Second Congo War, which began in 1998, was still continuing. Namibia, Angola, Zimbabwe, and Chad sent soldiers to help the Congolese government, while Rwanda, Uganda, and Burundi backed rebels. In 1999, the Rally for Congolese Democracy (RCD) was divided into two factions: RCD-Goma, which was backed by Rwanda, and RCD-Kisangani, which was backed by Uganda. Uganda also backed the MLC (Movement for the Liberation of Congo), a northern rebel force. All of these rebel factions were at odds with Kabila's Kinshasa administration, but they were also becoming more antagonistic towards one another. Various peace negotiations were organized, culminating in the signing of the Lusaka Ceasefire Agreement by Kabila, Kagame, and all other foreign countries in July 1999. The deal did not include the rebel organizations, so warfare continued. During the year 2000, the RPA remained extensively involved in the Congo War, conducting engagements in Kisangani against the Ugandan army and in Kasai and Katanga against Kabila's forces (Prunier 2009, p. 221). Kabila was killed inside his palace in January 2001. His son Joseph was named president, and he quickly asserted his power by removing his father's cabinet and top army officers, forming a new administration, and participating in foreign relations. The new government sparked new peace talks, and in July 2002, Rwanda, Congo, and the other major participants reached an agreement in which all foreign troops would withdraw and RCD-Goma would enter a power-sharing transitional government with Joseph Kabila as interim president until elections could be held (Armbruster, 2003). Kagame's administration claimed at the end of 2002 that all uniformed Rwandan forces had departed Congolese territory, but a 2003 assessment by a UN team of experts refuted this claim. According to this study, the Rwandan army had a specific "Congo desk" that employed the armed forces to illegally take Congolese resources on a huge scale.

Relations between Kagame and the Congolese government remained tight despite the agreement and subsequent truce. The Democratic Forces for the Liberation of Rwanda (FDLR), Rwandan Hutu insurgents fighting in North and South Kivu provinces, are blamed by Kagame for the DRC's failure to

subdue them. Rwanda, according to Kabila, uses the Hutu as a "pretext for retaining its dominance and influence in the region." Since 2004, there has been persistent fighting in Congo's eastern regions, with Kagame supporting two main insurgencies. This featured a significant uprising headed by Congolese Tutsi Laurent Nkunda from 2005 to 2009, as well as a revolt led by Bosco Ntaganda of the March 23 Movement (M23) commencing in 2012. According to a leaked UN report from 2012, Kagame's defense minister, James Kabarebe, is effectively the M23's commander. Since 2016, when Kagame met with Kabila in Gisenyi for a bilateral meeting, relations have improved. When Félix Tshisekedi was elected president of the DRC in 2019, Kagame, who was the AU chairman at the time, unsuccessfully sought an AU inquiry of the election. Despite this, after Tshisekedi's victory, he has formed a strong friendship with him, holding summits in both Kinshasa and Kigali. Rwandan army are still engaged in the Kivu regions as of 2020, according to Kagame. RDF soldiers have been spotted in the DRC, according to Congolese authorities such as Walikale member of parliament Juvénal Munubo and civilians, although Kagame has continuously denied these accusations (Piel and Tilouine, 2016).

v. Rwanda's Role in International Peacekeeping

Following Rwanda's independence and the Rwanda Patriotic Army's stoppage of the Tutsi Genocide in 1994, Rwanda has made significant efforts to ensure the security and safety of the country's territory by establishing competent and professional security organizations. The country is widely regarded as one of the safest on the continent, and its outstanding commitment to international peacekeeping efforts has given it the distinction of being the origin of the infamous "Kigali Principle" on civilian protection. Since 2004, Rwanda has been the UN's sixth largest soldier and police contributor, with approximately 4,000 troops, 400 police (150 female officers), and 13 military observers serving.

Rwanda is also the country with the largest proportion of female police officers, and the highest proportion of female police officers in Africa.

Rwandan troops and police officers are deployed to seven UN missions, including the African Union-United Nations Hybrid Operation in Darfur (UNAMID), where Rwanda was the first country to send peacekeepers; the United Nations Mission in South Sudan (UNMISS); the United Nations Stabilization Mission in Haiti (MINUSTAH); the United Nations Mission in Liberia (UNMIL); the United Nations Interim Security Force in Abyei (UNISFA); and the United Nations Integrated Peace-Building (UNIOGBIS).

The 2018 Gallup Global Law and Order study classified Rwanda as the second safest country in Africa, with 83 percent of inhabitants expressing trust in the local police force. The Rwanda Police Services were also named second best in Africa by the International Police Science Association (IPSA) and the Institute for Economics and Peace (IEP). Rwanda is also the UN's sixth largest troop and police contributor, with over 4,000 troops, 400 police officers (150 women), and 13 military observers serving since 2004.

The governments of Rwanda, Italy, the Netherlands, Uruguay, and Uganda have agreed on a voluntary set of principles on the protection of civilians in peacekeeping following a High-Level International Conference on Civilian Protection in Kigali in May 2015. The Kigali Principles state that civilian protection is the most important purpose of peacekeeping, and that successful civilian protection necessitates adequately trained soldiers, suitable equipment, and a strong political commitment.

The Kigali Principles indicate the signatories' joint resolve to further their efforts in peacekeeping missions to alleviate the tragic fate of people in violent conflicts. We want other major troop-contributing nations to join us in embracing these principles in order to improve our combined efforts to reduce suffering and promote peace across the world. (www.gov.rw)

1.6 Rwandan Political and Leadership Challenges

Despite Rwanda's above-mentioned political, economic, and structural gains during the previous two decades, obstacles and concerns persist. Some of these issues include:

a. Paul Kagame and the Rwandan Patriotic Front's authoritarian leadership; The ruling Rwandan Patriotic Front (RPF) and President Paul Kagame continued to exert control over Rwanda's political landscape, with political opposition leaders being intimidated and silenced, arrested, or forced into exile. Following Kagame's re-election with 98.8% of the vote in the 2017 presidential elections, the RPF achieved a landslide victory in parliamentary elections in September. A vote in 2015 altered the constitution, allowing Kagame to seek another term. The United Nations Subcommittee on Torture Prevention (SPT) postponed its visit to Rwanda in July owing to a lack of cooperation from Rwandan authorities, marking the first time the SPT has canceled a visit in 11 years. A report on police killings of Congolese refugees in the Western Province has yet to be released by the National Commission for Human Rights.
b. Civil society repression; Civil society groups, local and foreign media, international human rights organizations, and political opponents are unable to independently question government policies. A Human Rights Watch researcher was denied admission to the country in January 2018. A Rwandan Human Rights Watch specialist was detained and imprisoned for six days in the same month, with the first twelve hours spent incommunicado.
c. Restrictions on press freedom; while some private radio stations occasionally carried programs on "sensitive" topics, the majority of print and broadcast media remained dominated by pro-government viewpoints. Because of intimidation, threats, and indictments in prior years, most journalists were unable or unwilling to participate in investigative reporting on politically sensitive matters, and they rarely questioned government policy.

d. Human rights concerns; Independent civil society groups have become very weak as a result of years of governmental intimidation and intervention, and few document and expose state-sanctioned human rights violations. The BBC's Kinyarwanda service, for example, remained suspended, as it had been since 2014.
e. Ongoing ethnic and religious disputes and tensions between Paul Kagame's Tutsi-dominated administration and the Hutu-dominated opposition.

1.7 Conclusion and Recommendations

This case study shows a a success story in which effective leadership and capacity building were key factors in accomplishing development goals. The administration has put in place frameworks for promoting national growth and coordinating reform initiatives across the board. It has developed a well-defined long-term reform strategy that guides the country's short-term development objectives. Rwanda's success story serves as a model for other African governments seeking economic development and political peace. The Rwandan government has also made it exceedingly easy for investors to enter the nation, resulting in an increase in foreign direct investment. By expediting legal processes for beginning, operating, and ending a business, the Rwandan government has sought to accommodate the demands of investors, small and medium-sized businesses, and others.

In summary, despite these accomplishments, some political and social issues remain unresolved. The crisis in neighboring Congo, as well as the Kigali government's persistent support for armed rebels, continue to dominate the international narrative, while human rights violations and the persecution of opposition leaders continue to tarnish Rwanda's leader's political image. To address these issues, the government should do more to protect minority rights, end repression of the press and political opponents, and increase investment in education, health care, and infrastructure.

References

Agaciro development Fund (I). "Agaciro Development Fund" (PDF). Archived from the original (PDF) on 29 January 2013. Retrieved 30 May 2013.

Alina Patrick;2019. Women in Government: Representation in Rwanda - The Borgen Project Armbruster, Stefan (18 February 2003). "Rwanda denies DRC plundering". BBC News. Retrieved 15 February 2013.

Asiimwe, Bosco (26 August 2010). "$200m project launched in Kigali". The New Times. Kigali. Archived from the original on 20 March 2014. Retrieved 5 May 2013.

Beaubien, Jason (15 July 2020). "Why Rwanda Is Doing Better Than Ohio When It Comes to Controlling COVID-19". NPR. Retrieved 5 December 2020.

Birakwate, Bruno (26 March 2012). "Google Maps to promote Rwanda's tourism". Rwanda Focus. Archived from the original on 18 April 2013. Retrieved 3 April 2012.

Burnet, Jennie E. 2012. Genocide Lives in Us: Women, Memory, and Silence in Rwanda Madison:University of Wisconsin Press.

Chrétien, Jean-Pierre (2003). The Great Lakes of Africa: Two Thousand Years of History. Cambridge, Mass.: MIT Press. ISBN 978-1-890951-34-4. Archived from the original on 2016-05-08. Retrieved 2016-09-25.

Drumbl, Mark. 2013. "'She Makes Me Ashamed to Be a Woman': The Genocide Conviction of Pauline Nyiramasuhuko." Michigan Journal of International Law 34, no. 3: 559– 603.

Fiedler, F. E. (1993). The contingency model: New directions for leadership utilization. In Matteson and Ivancevich

(Eds.), Management and Organizational Behavior Classics (pp. 335)

Government of Rwanda: Governance (www.gov.rw)

Gumusluoglu, L. T., & Ilsev, A. (2006). Moderating effects of climate and external support on transformational leadership and technological innovation: an investigation in creative ventures in Turkey. In Technology Management for the Global Future, 2006. PICMET 2006 (Vol. 2, pp. 898-907). IEEE.

Grant, Richard (22 July 2010). "Paul Kagame: Rwanda's redeemer or ruthless dictator?". The Daily Telegraph. London. Retrieved 28 February 2013

Jung, D. I., Chow, C., & Wu, A. (2003). The role of transformational leadership in enhancing organizational innovation: Hypotheses and some preliminary findings. The Leadership Quarterly, 14(4), 525-544.

Kagame, Paul (2 November 2009). "Why Africa welcomes the Chinese". The Guardian. Retrieved 8 June 2013.

Kigali Health Institute (KHI) (22 March 2012). "About KHI". Archived from the original on 26 August 2012. Retrieved 26 April 2012.

Kimenyi, Felly (2 May 2021). "Use fewer resources to achieve better results – RPF cadres told". The New Times. Retrieved 25 May 2021.

Kinzer, Stephen (2008). A Thousand Hills: Rwanda's Rebirth and the Man Who Dreamed it (Hardcover ed.). Hoboken, N.J.: John Wiley & Sons. ISBN 978-0-470-12015-6

Longman, Timothy. 2011. "Limitations to Political Reform: The Undemocratic Nature of Transition in Rwanda." In Remaking Rwanda: State Building and Human Rights after Mass Violence, edited by Scott Straus and Lars Waldorf, 25–47. Madison: University of Wisconsin Press

Mamdani Mahmood (2002). When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda. Princeton, N.J.: Princeton University Press. ISBN 978-0-691-10280- 1. Archived from the original on 2016-06-24. Retrieved 2016-09-25.

McGreal, Chris (16 January 2009). "Why Rwanda said adieu to French". The Guardian. London. Retrieved 16 February 2012.

McGreal, Chris (11 January 2007). "France's shame?". The Guardian. London. Retrieved 9 February 2013.

Midterm report of the Group of Experts on the Democratic Republic of the Congo, U.N. doc. S/2020/1283, December 23, 2020.

Munyaneza, James (1 April 2013). "Why Rwanda's UN Security Council presidency is good news". The New Times. Kigali. Archived from the original on 4 May 2013. Retrieved 7 May 2013.

Musoni, Edwin (8 June 2011). "Rwanda-China trade up fivefold". The New Times. Kigali. Archived from the original on 20 March 2014. Retrieved 29 May 2013.

M. Juliana. 2010. "The Will to Political Power: Rwandan Women in Leadership." Institute of Development Studies Bulletin 41, no. 5: 72–80

Northouse, Peter (2007). "Contingency Theory". Leadership: theory and practice. Thousand Oaks: SAGE Publishing. pp. 74–87.

Prunier, Gérard (1999). The Rwanda Crisis: History of a Genocide (2nd ed.). Kampala: Fountain Publishers Limited. ISBN 978-9970-02-089-8. Archived from the original on 2014-04-16. Retrieved 2016-09-25.

Piel, Simon; Tilouine, Joan (8 December 2016). "British spies closely track mineral-rich Congo's business dealings". Le Monde. Retrieved 8 December 2020 Pflanz, Mike (29 November 2009). "Rwanda joins the Commonwealth". The Daily Telegraph. London. Retrieved 7 May 2013.

Reuters (III) (16 March 2011). "Rwanda completes $95 MLN fibre optic network" Archived from the original on 19 March 2011. Retrieved 16 February 2012

Ronald A. Heifetz "leadership without easy answers" Harvard University Press, 1994.

Reyntjens, Filip (2013). Political Governance in Post-Genocide Rwanda. Cambridge University Press. ISBN 978-1-107-04355-8

Smith, Stephen (13 January 1995). "La France et le Rwanda à l'heure de la normalisation". Libération (in French). Retrieved 11 February 2013.

Sundaram, Anjan (25 February 2010). "On Visit to Rwanda, Sarkozy Admits 'Grave Errors' in 1994 Genocide". The New York Times. Retrieved 8 February 2013.

Samset, Ingrid. 2011. "Building a Repressive Peace: The Case of Post-Genocide Rwanda." Journal of Intervention and Statebuilding 5, no. 3: 265–283.

The U.N. sanctions committee for DRC, which represents U.N. Security Council member states, is responsible for making sanctions designations, and operates by consensus. 56 See

International Crisis Group, "Averting Proxy Wars in the

Eastern DR Congo and Great Lakes," January 2020. 57 IMF World Economic Outlook database, October 2020

Thomas Turner, The Congo Wars: Conflict, Myth and Reality, Zed Books: 2007; Gérard Prunier, Africa's World War: Congo, The Rwandan Genocide, and the Making of a Continental Catastrophe, Oxford University Press: 2008; René Lemarchand, The Dynamics Violence in Central Africa, University of Pennsylvania Press: 2009; Jason.

Thomson, S. (2011). "Whispering truth to power: The everyday resistance of Rwandan peasants to post-genocide reconciliation". African Affairs. 110 (440): 439–456. doi:10.1093/afraf/adr021

Whewell, Tim (31 March 2010). "What is the true price of Rwanda's recovery?". BBC Newsnight. Retrieved 3 April 2021.

World Health Organization (WHO) (I) (2009). WHO Country Cooperation Strategy, 2009–2013: Rwanda (PDF). ISBN 978-92-9031-135-5.

World Bank (II). "Rwanda". Data. Retrieved 16 February 2012.

Wintour, Patrick (18 January 2008). "Blair takes on unpaid role as Rwanda adviser". The Guardian. London. Retrieved 1 March 2013.

RESEARCHING FOR TREATY DOMESTICATION BILLS: NOTES FOR THE LEGISLATIVE DRAFTER AND LEGISLATIVE AIDE

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ABSTRACT

This paper provides a simplified guideline and notes for conducting research towards effecting an instruction to draft a treaty domestication Bill. It dwells particularly on issues which must be considered by a legislative drafter and researcher while drafting a treaty domestication Bill. The purpose is to proffer a clear, simple and sustainable guideline for legislative drafters, legislative aides and researchers alike on treaty domestication Bills. This is to ensure that the treaty domestication process is effective, efficient and reliable. The paper accordingly applies an instructive and qualitative approach to explain the key processes for conducting a research towards drafting a treaty domestication Bill. As an illustration, the paper examines the six major reasons for a legal research and how they may also apply to a research for a treaty domestication Bill, highlighting the importance and impact of each to drafting a treaty domestication Bill. The paper will prove very useful as an accessible guideline and notes for early career legislative drafters, legislative aides and persons with interests in legislative drafting with particular reference to research requirements for drafting treaty domestication Bills.

KEY WORDS: Legal Research, Legislative Drafting, Treaty Domestication Bill, Purposes of Legal Research

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1. INTRODUCTION

Although legislative drafting is a technical role, to ensure clarity, applicability and compatibility of the Bill with society, it must be evidence based and draw inspiration and content from socio-legal and political context of the society. Gathering such evidence and making the Bull reflective of socio-political reality can only be achieved through effective legal research. This makes legal research a very important process in the Bill drafting process whether local statutes or treaty domestication Bills. Research should however be more nuanced, crucial, wider and peculiar when treaty domestication Bills are involved. This is because a drafter is required to consider, similar to when drafting a local statue, the constitutional, statutory, economic, political and international relation factors in choosing the wordings and structure of the Bill. A research for treaty domestication Bill like all legal research deals with the ascertainment of the nature of law of a particular subject, the rationale behind a legislative enactment or justification for an adoption of an international agreement into domestic law. Thus in order to properly guide early career legislative drafters[85] in the drafting of domestication Bills or the conduct of good Bill analysis[86] on a treaty domestication Bill, a legislative drafter or legislative aide must conduct a proper research on the treaty, its domestication process, relevance and compatibility. This paper thus provide a simplified

[85] Drafters do not just follow whatever drafting instruction given to them. Drafters, as professionals, should be able to advise Bill sponsors on the constitutionality, appropriateness etc., of a Bill. Such advice cannot be given without proper research on the Bill. Thus, drafters are required to have excellent research skills because Bill sponsors rely on their expertise and professionalism.

[86] Generally, Bill analysis is a different output. However, some drafting instructions, particularly instructions for domestication of treaties come with zero draft of the Bill, or the international agreement. In such cases, it would be instructive to conduct an analysis of the Bill or agreement and advice the sponsor of any key discovery before proceeding to the Bill drafting stage.

guide for a drafter and legislative aide towards conducting a research that would assist in drafting a treaty domestication Bill.

It is important that such research examine the proposal (Bill) from different perspectives ranging from legal, social, political, religious, cultural and economic to level of infrastructural development. This means that in deciding the research approach to be adopted, it could be any of doctrinal and non-doctrinal research or a combination of both. The expectation is that an effective and well conducted research will form the basis for the treaty domestication drafting approach and content or substance of the treaty domestication Bill. This paper, seeks to provide a foundational guideline for legislative drafters, legislative aides and researchers in the National Assembly, Attorney General's offices, legal services departments of Ministries and interested stakeholders on the baseline considerations for legal research in aide of treaty domestication Bills.

To provide a research guideline for this process the remaining part of the paper is structured as follows. The next section provides a guideline for identifying and clarifying the research purpose in order to design a research direction for the research. This is followed by a section providing an outline and discussion on the general purposes for a legal research on treaty domestication Bills. Next is an examination of sources of law that may be considered in legal research and how the sources and reasons for research may be helpful in the drafting assignment. The paper ends with a conclusion.

2. IDENTIFYING AND CLARIFYING RESEARCH PURPOSES

Legal research could be doctrinal, non-doctrinal (usually empirical) or both. However, before deciding on the research type, the researcher should first outline possible questions to ask of or about a particular legislative proposal (Bill) seeking to domesticate a treaty. The answers to these questions will afford the drafter valid data upon which to draft the provisions and structure of the Bill. These questions include:

a. Is there any Nigeria law governing the set of facts being proposed for regulation by the treaty?

b. If any, what is the principle of law guiding the conduct or relationship?
c. Is there a lacunae which can be best filled by an international agreement or treaty?
d. What is the relationship between Nigeria and parties to the treaty?
e. What led to the signing of the treaty?
f. What and how does the proposed law affect dispensation of justice in Nigeria?
g. Are provisions of the treaty transient, temporal or long-term?
h. What is the relationship between the domestication Bill to Nigerian Sovereignty?
i. What is the relationship between the domestication Bill and Nigerian Constitution?
j. Are there provisions for partial or wholesale adoption of the treaty?
k. What are the peculiar benefits to Nigeria?
l. Is there need for the establishment of an implementing agency?

These questions when adequately answered help determine the nature of advice to give to drafters, legislators and implementers of the domestication Bill, if and when eventually drafted. One of the key benefits of good research is that the jurisdiction and or legal system under which a research is conducted may elicit different responses to similar question depending on the jurisdiction within which or for which the research is conducted. This is because of the implication of differences in legal systems and the status of each country in the international community. However, to answer these questions, the researcher must apply the methods compatible with a carefully selected legal research type and the class of legal research objective and question(s) the research seeks to address. Thus the guidelines for determining the research methodology most suitable could be deciphered and applied with reference to the type and general purpose of the research.

3. TYPES AND PURPOSE OF LEGAL RESEARCH ON TREATY DOMESTICATION BILLS

Generally, types of legal research could be classified broadly into doctrinal research, reform-oriented research, theoretical research and fundamental research[87]. However, irrespective of this classification, a research in law must have a general purpose and defined specific objective(s). Identifying the general purposes, which generally fall within a group of six, and clearly defining the specific purpose will assist in determining the research type and accordingly the research method and treaty domestication format to be adopted for the Bill e.g. wholesale adoption, reference and force of law method or partial adoption. Wholesale adoption is when the Bill enacts verbatim a treaty as a domestic law. Reference method on the other hand is when the implementing law makes reference to the treaty being domesticated as being applicable and enforceable. This means that the implementing law refers to the provisions of the treaty, either specific provisions or general as being effective. This is also referred to as domestication by force of law. Partial adoption on the other hand, is when the law domesticating the treaty either by reference or force of law only adopts specific provisions of the treaty gives them force of law.[88] Deciding on which of these formats to adopt would be easier and more accurate when purpose of research is clearly identified and followed. Generally, purposes of research which may also be applicable to research on treaty domestication Bills include:

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[87] Terry Hutchinson and Nigel Duncan, 'Defining and Describing What We Do: Doctrinal Legal Research', *Deakin Law Review* Volume 17 NO 1, 101, see also Rhuks Ako and Damilola S Olawuyi, '*Methodology, Theoretical Framework and Scholarly Significance: A Review of International Best Practices in Legal Research'*. A paper presented at the 48th Annual Conference of the Nigerian National Association of Law Teachers hosted by Afe Babalola University, Ado Ekiti, Nigeria (2015)

[88] Flora Alohan ONOMRERHINOR "A Re-Examination of the Requirement of Domestication of Treaties in Nigeria", NAUJILJ *2016, p. 21.*

To gain familiarity with the treaty and its subject matter or to achieve new insights into the subject of the treaty.

This is generally the most frequent purpose of research conducted in law and usually require applying a doctrinal research method. Doctrinal research usually examines aspects of the treaty and analyse all or some of its facets against the background of extant laws, principles of law and constitutional provisions. This type of research also relies on principles of law, case laws, statutory provisions and constitution to analyse and understand a legal question.[89] It assists the drafter to ascertain the extent of compatibility with extant law and extent of changes which the Bill may introduce and whether it can be introduced without making any changes in extant laws. For a research on a treaty domestication Bill, this should be the first research type to be explored to meet the first objective of gaining familiarity and clarity with the subject matter of the treaty.

To suggest reforms in law

Another objective of legal research which may also benefit a research for a treaty domestication Bill and process, is one which seeks to suggest reform in law. There are instances where treaties and agreements are being adopted because of the innovative approach they bring into solving certain socio-legal problems.[90] Thus where a treaty domestication Bill is being promoted as innovative, the drafter has the task of determining whether that is the case by finding out the innovations being introduced. The drafter as researcher could also conduct a research to determine whether the proposed treaty could be adapted to meet local standards. Such objective usually arises when a deficiency, gap, limitation or weakness has been observed in domestic laws.

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[89] Ibid

[90] For instance, the Child Rights Act 2003 which is a domestication of an international treaty See the UN Convention on the Rights of Children, G.A. Res. 44/25, Treaty Series, vol. 1577 at 3, (Nov. 20, 1989), has made significant impact on child protection laws in Nigeria. Currently, several states in Nigeria have gone further to domestic the Child Rights Act as state Laws

To ascertain the legal status of legislation or law on the subject matter if any.

Law is dynamic and should change along with society and this is why many laws are enacted each day to deal with issues as they arise. The speed at which these new laws are enacted and older ones become obsolete are many times not properly documented or recognised leading in many cases to duplications and lacunae. To adequately follow this trend requires continuous painstaking research to help ascertain the status of legislation on individual subject matters. Thus a research into the subject of a treaty sought to be domesticated, should make it a priority to find out the status of Nigeria laws on the subject matter. This will arm drafters with evidence based advice to proffer to Bill sponsors as to the necessity or otherwise of treaty domestication Bills and the drafting method to be adopted.

To highlight inbuilt 'gaps' and 'ambiguities'

The law is never perfect especially when it is made by a group of people with different interests, aspirations and national interests. This is why treaties are usually technical and rely heavily on broad terms. The effect is that in many instances, treaties use terminologies and principles which may have different meanings and implications in different jurisdictions. The effect of this ia that in some cases, in an attempt to use domestic terms, some of the meanings of the treaty may be lost. To accurately capture the intended meaning, using local terminologies where necessary, adequate research has to be conducted to highlight the gaps and ambiguities that may arise and how best to cover such gaps and ambiguities.

Determining consistency, coherence and stability of law

Treaty domestication Bills like every other Bill must operate in consonance and harmony with other laws, international and local, to gain both legitimacy and operability. In this regard it is therefore the job of a researcher to ascertain whether there exist international treaties or agreements regulating the subject matter which the proposed legislation covers. Another aspect that a research may seek to examine is whether, there exist treaties and agreements which are in conflict with the proposed treaty domestication Bill. These include regional treaties, bilateral treaties and multilateral treaties.

The same principle applies in checking if there are domestic legislation which already cover the subject matter or which may conflict with the proposed treaty. For a constitutional democracy like Nigeria, the first test is to check if the proposed treaty is in consonance with the Constitution and then other statutes, regulations and orders. In Nigeria, there are certain key legislation which any introduction of a treaty must not neglect. Similarly, a research into the suitability of treaty domestication Bills must examine these laws. Examples are Constitution of the Federal Republic of Nigeria 1999 as altered, the Interpretation Act and Acts Authentication Act[91]. Another set of laws that must be properly understood and researched upon are customary laws. This is necessary to help determine if there is indeed need for the treaty or agreement and if institutions (if any) created by existing laws could administer the proposed legislation. This means that a research in this direction must be such that it can elicit information that will adequately guide law makers and implementers of the law on the consistency, coherence and stability of law.

4. SOURCES OF THE TREATIES AND TREATY DOMESTICATION BILLS

Generally, the legislature is the arm of government empowered to make laws[92] but certain other authorities, institutions and arms of government are also sources of legislation in the sense of originators of the legislation. Concerning treaties, this includes finding out which country, organisation, circumstance, treaty or international institution championed the introduction of the treaty. This is important to help a researcher elicit evidence based information with which to advise the government. Such informed advice will help government decide whether to domestic the treaty and the treaty domestication model to adopt e.g. wholesale adoption,

[91] See Deji Adekunle and Justus A. Sokefun, '*Law 600: Research Methodology in Legislative Drafting'* (*Course Outline*) National Open University of Nigeria 2008, 42. Available online at: <http://nouedu.net/sites/default/files/2017-03/law%20600.pdf> accessed 2nd March 2017,

[92] Section 4 of the CFRN 1999 as altered.

reference and force of law method or partial adoption. Accordingly, in researching on treaty domestication Bills, the following should be regarded as important sources:

International Agreements and Treaties

International Agreements are major sources of national and treaty domestication laws. This means that while researching on a particular treaty domestication Bill, it is advisable to trace the history and origin of the treaty being proposed for domestication. The drafter/researcher should ascertain if it arose from a convention which the country fully participated in, if it took in the view and concerns of stakeholders, if it is being championed by a particular region of the world to the detriment of another region etc. Knowledge of these issues will help the researcher seek out ways to reduce or eliminate certain phrases or provisions of the treaty that may appear innocuous but actually contrary to national interest, culture and security. In some cases, these information may not be apparent, but identifying who or the organisation, country or region, the proposed treaty is associated with will help provide context and general position of the treaty.

International Organisations and Pressure Groups

International organisations may also develop laws which they then lobby regional bodies like African Union, European Union, and ECOWAS to adopt as treaty and subsequently push member countries to adopt and ratify such treaties. In this circumstance, the drafter/researcher must not only research the proposal but also the body championing its adoption.

The Executive:

In most treaty domestication Bills arise from the executive arm of government. This is because generally, it is the executive through relevant Ministries that initiate and enter into negotiations with other countries and regional bodies in the development and signing of treaties. In some cases, the treaty may be ones that appear to promote the manifesto of government in power. For instance, the Buhari Administration have sought to customize and domesticate bilateral agreements entered with some countries on money laundering and extradition of criminals through the Money Laundering (Prevention and Prohibition) Bill, 2016 and Extradition Act

(Amendment) Bill, 2018 (HB1187).[93] Although these Bills arose or borrowed from bilateral agreements, the executive can be attributed as its source because the Executive went out seeking for the law in line with its manifesto of fighting corruption. Accordingly, when conducting research on such a Bill, it is important to note why the government wants to domestic the treaty and what aspects of the treaty best promotes the interest of the nation. It is most likely that there are also aspects that may either undermine national interests or are in conflict with cultural and religious practices in some parts the country. In such scenario, it is the job of the drafter/researcher to highlight such challenges and seek out best way at resolving identified challenges.

Judicial Developments:

The court is another veritable source of both domestic and international treaties. This is because in its bid to accurately interpret domestic laws the courts do at time make reference to international treaties either authoritatively or advisory. Where this happen, the state may take a leave from the court and properly domesticate the treaty/agreement in question or make laws to exclude same. A practical example where the court have relied on existing treaty and which the state should have further promoted by domesticating the relevant provision was the case of *Gani Fawehimi V Federation*. In this case the court held that in the absence of fundamental human rights provisions as enshrined in the constitution, the provisions of the AU on Human Rights takes precedence. Although this happened in the

[93] See for example Punch Newpapers, Editorial: Buhari's new money laundering laws Punch Newspapers Online, February 26, 2016. Available online at: <https://punchng.com/buharis-new-money-laundering-laws/> accessed 12 September 2020; Full List of Bills Passed by the Nigerian Senate Since June 9th, 2015 available online at: <https://medium.com/@NGRSenate/full-list-of-bills-passed-by-the-nigerian-senate-since-june-9th-2015-f8c253bc4da0> accessed 12 September 2020

military era, the legislature can now take advantage of this provision to update the CFRN1 1999 as amended accordingly.

Reports of Law Reform Commission.

In accordance with the law reforms mandate which is to "undertake the Progressive development and reform of substantive and procedural Law applicable in Nigeria by way of codification, elimination of anomalous or obsolete laws and general simplification of the law in accordance with general directions issued by the Government from time to time and for matters connected therewith" is also a source of law. This is because, in line with its mandate, the Law Reform Commission has undertaken several research on different aspects of the law, including treaties. Some of these research are not in the public domain but are available on request from the commission. In other words, it is most advisable to also search in the Law Reform Commission for materials that may add value to your research. Their research output though not published may help you understand why a particular proposal was not acceptable, is being delayed or should be adopted immediately.

Private Interest Groups:

In Nigeria, there exist many private interests groups who conduct in-depth research and have expert knowledge in particular areas of the law. Some of these organisations may be powerful enough to initiate the adoption of international treaties. It is worthwhile as a drafter/researcher to understand the objectives of such interest groups, their affiliations and most importantly their outputs in terms of legislative proposal. These materials can provide better and in-depth data and insight for the analysis of treaty domestication Bills and instructions.

5. CONCLUSION

As indicated in the abstract and introduction, this paper is a simplified guideline for conducting a research towards drafting a treaty domestication Bill. It draws from extant knowledge and presents same in a simplified format to assist early career drafters and legislative aides in supporting their principals (legislators sponsoring treaty domestication Bills). Conducting an efficient and effective research is highly dependent on asking accurate

research questions, collecting accurate data and understanding the research context. In treaty domestication Bills, this is of utmost importance, especially as the final treaty output is usually affected by factors beyond domestic control. In such a scenario the first and best opportunity a nation has in efficiently domesticating a treaty is to understand it. This is where effective and efficient research comes in. To effectively help the drafter, the legislator, the Ministerial department or agency to understand treaty domestication proposal, the drafter must understand the background of the treaty. To understand the background of the treaty, its source or origin requires good research skills. Every researcher, particularly drafters and legislative aides, should therefore always remember to enquire about the source of the Bill and also where they can obtain adequate data for its analysis. Many at times, these sources of the Bill are also good sources of data for understanding the drafting instruction and properly structuring the Bill to adequately capture the intent of the sponsor, align with national policy and maintain compatibility and coherence with domestic laws. This simplified guide for conducting a research for a treaty domestication Bill contributes to this process.

WOMEN ACTIVISM AND THE CHANGING ATTITUDE ON THE ROLE OF WOMEN IN POLITICS AND GOVERNANCE IN NIGERIA

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ABSTRACT
This paper examines women activism and the changing attitude on the role of women in politics and governance in Nigeria. It observed that the traditional attitude and prejudice against women in most patriarchal societies, particularly in Africa, is among the major factors responsible for the subordination and obscurity of women in politics and governance. Using desk review and historical approach, finding shows that primordial prejudice against women's participation in public affairs is gradually giving way to a more accommodating role for women as evidenced by the growing visibility of women in politics and governance, especially since Nigeria's return to democracy in 1999. The paper established that the rising public profile of women is due to decades of enduring struggles by women activists (prominent women in history, international organizations, wives of Heads of State [first ladies], Non-Governmental Organizations (NGOs), feminist groups, and women in politics and decision making), through activism, public enlightenment campaign, advocacy, among others. The paper concludes that in spite of the changing attitude on the role of women

and their *de jure* recognition as equal players in politics and governance, the absence of a comprehensive law dealing with women issues have limited the effective participation of women in politics in Nigeria. It is therefore recommended that Nigeria should domesticate CEDAW as one of the important step to achieve effective mainstreaming of women into politics and governance.

Key words: women's movement, changing attitude, governance, politics, activism

INTRODUCTION

Prejudice and discrimination against women has been a common feature of most patriarchal societies, particularly in Africa, even though variation exists from one society to another. In Nigeria, just as in most African societies, women have mostly been treated as the weaker sex, resulting in their oppression, marginalization and alienation. These asymmetries manifest in many forms ranging from political domination, economic inequality to socio-cultural discrimination, among others. The reason for this disparity is that women are generally regarded as weak; inferior to men; lacking in intelligence; sexual object; personal property; personal servant; domestic slave; and deserving abuse (Dike 2012). This conception about women has often been justified by the Victorian ideology which suggests that God's intention for a woman is to take care of the home front and provide help for her husband whom she is structured by nature to depend on (Haralambos and Holborn 2008), to consolidate men dominance in public affairs.

These erroneous and narrow perception and belief held about women in many societies, have contributed to the tendencies for women to be socialized to accept as their primary social responsibilities, restricted socio-economic roles, such as housekeeping, domestic chores, raising of children etc., in the family, schools and even work places. In a typical African society, women who venture into the public activities such as politics are viewed as deviants. Even women themselves consider women participation in certain aspects of public affairs, especially leadership

positions as an aberration. Women who dared to engage in activities outside the traditionally approved social roles are stereotyped as wayward, uncultured and in extreme cases, regarded as prostitutes.

These negative traditional attitudes towards women, have caused many potentially qualified women to refrain from partisanship and roles that expose them to public visibility (Fakeye, George and Owoyemi 2012). Despite the spread and penetration of western values and institutions with strong advocacy for gender equality and mainstreaming, prejudice and discrimination against women persist in many segments of the Nigerian society. These prejudices are inherently expressed in structural imbalances that reflect even in occupational choices in which careers such as nursing, subsistent farming, teaching, secretarial and clerical jobs, petty trading, domestic labour, among others, are considered suitable for women, while highly technical, political and decision-making professions such as engineering, medicine, piloting etc., are considered masculine.

It is therefore not surprising that in the First Republic, the Nigerian government did not accord any meaningful role to women in governance (Ngara and Ayabam 2014). Successive military governments after the First Republic did little to change the narrative as governance was considered a masculine business. Ajayi (2010) averred that from independence in 1960 to the restoration of democracy in 1999, women participation in governance never exceeded 4%. This underscored the degree and extent of the marginalization and subjugation of women relative to men in public affairs in Nigeria.

However, since the declaration of the International Women's Year by the United Nations in 1975 and the International Decade for Women (1975-1985), there has been a gradual shift in public attention from the initial myopic and negative views held towards women's participation in development to positive and broader ones (Fonjong 2001, p.10). Subsequent conferences like the Nairobi Conference, the World Conference on Women Forum in 1985, raised tremendous awareness and targeted benchmarks for achieving accelerated gender balance and social justice for women globally.

These efforts were complemented at the local levels by the active roles of various women activists and feminist groups such as wives of Heads of State, women in politics and decision-making positions, women organizations, Non-Governmental Organisations (NGO's), as well as statutory bodies like the Federal Ministry of Women Affairs, the Council of Women Societies of Nigeria, among others. The roles of these women activist has serve as change factor in fostering new attitudes in promoting gender balance in politics and governance.

Today, the hitherto existing discrimination and prejudice against women has progressively abated. Women themselves have taken advantage of these changes with increasing level of interests and participation in public affairs. Consequently, more and more women are being appointed into key position of authority both in public and private sectors across the world including Nigeria. It is against this background that this paper examines women activism and the changing attitude on the role of women in politics and governance in Nigeria.

Women as History Makers

Global history has proved that both males and females are capable of making contributions to human development if given the opportunity to do so. The era of Lady Margaret Thatcher as Prime Minister of Britain remain an important segment in British political history (Obiyan and Akindele 2002, p.242). In the Philippines, India and Pakistan, women have served their countries at the highest level of political authority. These are Mrs. Gurazin Auguino, Mrs. Indira Ghandi and Ms Benazir Bhutto, respectively. We have also seen Mrs. Golda Meir wielding ultimate political authority in Israel (Obiyan and Akindele 2002, p.242). Closer home in West Africa, the patriotic zeal of Mrs. Allen Johnson Sirleaf, former President of Liberia, is a case in point. Allen Johnson Sirleaf, took over the reins of power after a protracted and devastating internal armed conflicts and spearheaded post conflict reconstruction and peace building in that country. These women at any rate have served as important agents of change in their respective countries.

Across Africa, Empress Taytu Betul (1851-1918), was an astute diplomat and a key figure in preventing Italian imperial incursion into Ethiopia. In Egypt, Huda Shaarawi, was a founding president of the Arab Feminist Union and established the Egyptian Feminist Union in 1923 (United Nations Educational, Scientific and Cultural Organisation 2019). Ghana's Yaa Asantewaa, was a Queen mother who in an uncommon display of heroism led thousands of army against the British colonial forces during war for independence in 1900 (Politics and Society 2015). In South Africa, Miriam Makeba, a Grammy award winner, used her musical talent as an instrument of political struggle and opposition against the Apartheid regime in South Africa (Ewens 2008; and Cowell 2008). Caseria Evora was another Grammy award-winning singer who perform bare foot in support of the homeless, poor women and children in Cape Verde (Politics and Society 2015). During the anti-colonial struggles, Muslim women fighters formed a great part of the FRELIMO (Mozambique Liberation Front) guerilla resistance against Portuguese colonial rule in Mozambique (Asiedu 2019).

Nigeria's pre-colonial history is replete with the exploits of women that have affected their people's history in remarkable ways. The modern city of Zaria was founded in the first half of the 16th century, by a woman called Queen Bakwa Turuku. She had a daughter called Amina who later succeeded her as Queen (Wole-Abu 2018, p. 2). Queen Amina [herself] was a great and powerful warrior (Kolawale, Abubakar and Awonibi 2012, p. 4), who through her bravery led army to free her land from invaders. In Yoruba land, Princess Moremi who lived in the second half of the 18th century in Ile-Ife, in one invasion during a war, she allowed herself to be captured only to learn the fighting tactics of her captors and came back to train her people who later defeated their enemies (Luka 2012, p. 27).

In ancient Yoruba land, the Oba ruled his people with the help of some women who are known as the ladies of the Palace (2016), to mention just a few. Other prominent women leaders in Nigeria's recent history like Funmilayo Ransome Kuti (West), Margaret Ekpo (East), both of National Council for Nigeria and the Cameroons (NCNC), Hajia Gambo Sawaba (North) of the Northern Element Progressive Union (NEPU), were active

in anti-colonial struggle and post-colonial politics (Tashi 2012, p. 97). In spite of the tremendous historical contributions of women to national development, their participation in politics and governance has remained marginally low except as voters in elections. Record shows that in Nigeria's First Republic, there was only one female representative in the federal parliament compare with 32 in the current dispensation (Wole-Abu 2018; and Oluyemi 2016).

Since the return to democracy in Nigeria in 1999, women have occupied key positions in government. The performance of these women were extolled by many local and international observers as outstanding and exemplary. Examples of these women are many, but the notable ones include Prof. Dora Akunyili, as Director General, National Agency for Food and Drugs Administration and Control (NAFDAC); Dr. Obiageli Ezekweseli, as Senior Special Assistant to former President Obasanjo on Budget Monitoring and Price Intelligence Unit and later Minister of Solid Minerals; Mrs Evelyn Oputu, as Managing Director of Nigerian Bank of Industry; Prof. (Mrs) Ruqayyatu Ahmed Rufai, as Minister of Education; Mrs. Ifueko Omoigui Okauru, as Executive Chair Federal Inland Revenue Service; Prof. (Mrs.) Grace Alele William, as Vice Chancellor, University of Benin; and Dr. Okonjo Iweala as Minister of Finance. The performance of these women in public capacity have raised the profile and pedigree of women in Nigeria from relative obscurity to visibility in public affairs.

It must be acknowledged that even though the scorecard as reflected in the number of women elected or appointed into political and decision-making is still abysmally low, there is no doubt that the present status and visibility of women in public affairs is a quantum leap from state of affairs in 1999, when Nigeria returned to democracy. This represents the gains of an enduring struggle of women's leadership for more than five decades. The decline in the number of women in elective positions, especially in the National and State Assemblies since the 2015 general elections is a result of failure to secure electoral victory rather than a decline in women's interests to participate in electoral process.

Some Important Trends in Women Activism in Nigeria

Historically, women in Nigeria have faced a wide spectrum of experiences in navigating through several hindrances that confront them. It is an established fact that the culture of patriarchy, male chauvinism and anarchy has greatly undermined the rights of women over the years. The effect is the latent and manifest structural violence, exploitation and marginalization of women in every sphere of societal affairs. Women for long have recognized the fact that their marginalization and subjugation will continue to subsist if they do not rise to the occasion and struggle for their rights.

Thus, women activism is a phenomenon that predate the independence of Nigeria as country on 1st October 1960. The first known organised women activism in modern Nigeria was the Abba Women Riot of 1929 (Matera, Bastian and Kent 2012). Whereas, throughout the British colonial administration in Nigeria, no woman was ever appointed into any of the Legislative Councils, they had to contend with bourgeoning colonial demands such as trade restrictions, increased taxation, levies, fees as well as excessive corruption of the colonial native authority. These state of oppression and marginalisation under the colonial government, and the lack of formal medium for women to seek justice, seem to have instigated the women movement in 1929, to protest socio-political and economic injustice meted out on the indigenous population.

Although, the Abba women activism of 1929, paid off as the colonial authorities dropped their planned tax increase and curbed the powers of the Warrant Chiefs, it however did not translate into the involvement of women in governance. Nonetheless, the 1929, women activism greatly inspired anti-colonial struggles, and created tremendous awareness about women identity and the potentials for women group to effectively organise themselves into a potent force in pursuit of their course as was later the case.

In 1944, for example, the first ever women political party was formed and devoted considerable effort in agitation for gender equality and improved welfare for women (Egwu 2015). Similarly, the Abeokuta Ladies Club transformed, first, into Abeokuta Women's Union in 1946, and later,

Nigerian Women Union in 1949 (Egwu 2015). Although, women had no adequate representation in the leadership of political parties such as the Nigerian Youth Movement (NYM), Nigerian National Democratic Party (NNDP) and National Council of Nigeria and the Cameroons (NCNC), they were however supportive to women groups and their causes.

Apart from the women political parties, pressure group such as the Lagos Women Leagues, also played prominent roles in canvassing for equality in access to education and better sanitary condition for women. Women activism in the pre-independence era became even more visible and penetrating in 1948 when Mrs Olufunmilayo Ransome-Kuti, led the Abeokuta Women's Union (AWU), in organizing a protest in Abeokuta against increase in taxation as well as the failure of the traditional rulers to protect local population against arbitrary colonial taxation. According to Simola (1999, p.104), the women's groups led by Mrs. Funmilayo Ransome-Kuti "Question the character of governance with regards to the authoritarian, arbitrary nature of decision-making by the Sole Native Authority and the colonial government''.

Mrs Kuti leading the AWU staged another protest in Abeokuta in 1949 demanding for the enfranchisement of women (Abdulraheem 2017). Mrs Kuti, wrote in 1946 that: "Inasmuch as Egba women pay taxes, we too desire to have a say in the management of the country, because a taxpayer should also have a voice in the spending of the taxes. We request you please to give consideration to our being represented in this [Sole Native Authority] Council by our own representatives at the next general election" (Simola 1999, p.104). It should be noted that the activism of these women organizations helped to push women's welfare matters in an organized manner, to the attention of the colonial government and the public (Egwu 2015, p.396).

Following Nigeria independence in 1960, the rolling back of colonial oppression and the heady expectation and prospects of a better future that followed, led to the relaxation of activism by women. Similarly, the immediate post-colonial political atmosphere characterized by divisive politics, violence and acrimony further undermined the interests of women in politics and governance. Political violence not only affected women's

participation in politics negatively, ethnic politics also divided women into opposing camps, making it difficult to mobilize for mass action at national level (Ikpe 1997). As women allegiance to ethic politicians and political party grow stronger, their gender solidary decimated depriving them of power of collective action that led to their successful activism under colonial rule.

The first United Nations Women Conference held in Mexico in 1975 declared 1975-1985 as the United Nations Decade for Women. This development stirred up massive global awakening on the need to promote equal rights and opportunities for women. This gained further impetus following the convocation of the Second and Third United Nations Women's Conference held in Copenhagen and Nairobi in 1980 and 1985, respectively. These conferences tracked the progress of the Decade for Women and culminated in the Women Beijing Conference in 1995. The United Nations 'Decade for Women' (1975-1985) and subsequent UN conferences promoted transnational political solidarity among women's leadership across the world. The principles developed by women organizations during these conferences facilitated the formulation of new transnational perspectives for political action, new organizational structures and new strategies for advancing women's issues (Nelson 2012, p.85). This led to new forms of women political self-organization, self-confidence, improved women's advocacy and inspired legitimacy for the role of women as workers both in and outside their homes.

The end of the Decade for Women coincided with the introduction of Structural Adjustment Programme (SAP), in Nigeria. SAP policies led to swift decline in the capacity of the Nigerian State to provide for the welfare needs of the people. These dramatic changes resulted in the phenomenal expansion of the informal sector, with women constituting larger part of the workforce while largely concentrated in highly exploitive, low paying jobs in the formal sector (Owoh 1998, p.84). The retrenchment of workers and decline in household income arising from the privatization of social services and the withdrawal of subsidy greatly affected the role of women as mothers and household managers. Jega (1996) rightly noted that the harsh economic situation compelled women to take up new roles as

bread winners in the family unit; and transformed their identity along gender, religious, ethnic, inter alia, which provided platform to mobilize other citizens to engage with the state.

As women grapple with the SAP crisis, their roles in politics and decision-making positions considerably waned both at the local, state and national levels. However, the ascension to power of the former First Lady Dr. Mrs. Maryam Babangida, wife of General Ibrahim Babangida, dramatically changed the public profile of women in Nigeria. She was the first wife of a Nigerian Head of State to use her spousal position as a basis for playing a prominent role in the nation's public life (Jubrin 2004). According to Jubrin (2004) Mrs. Maryam Babangida launched the Better Life for Rural Women Progaramme (BLP) in 1987 and wives of all senior state officials were incorporated into the organization. While the wives of military governors in the state became chairpersons of the state BLP, those of local government chairpersons also acted likewise.

This precedence was sustained by successive First Ladies after Mrs. Maryam Babangida with differing tempos and commitment. Her immediate successor, Maryam Abacha set up the Family Support Progarmme (FSP), aimed at reducing poverty and empowering rural women. Similarly, Justice Fati Abubakar, wife of General Abdulsalam Abubakar, established the Women Rights Advancement and Protection Alternative (WRAPA) with goal of attaining social justice for women. During former President Goodluck Jonathan administration, his wife, First Lady Dame Patience Goodluck Jonathan, introduced the Women for Change and Development Initiative (W4CDI) with the goal to encourage women participation in economic and political activities.

Although, the First Ladies significantly contributed in raising the profile of women in Nigeria, these programmes have mostly been criticized for focusing more on urban women at the expense of rural women. Nwabuzor rightly observed that few privileged women held positions of authority but did not promote "women" or "feminist" agenda on behalf of majority of women (Owoh 1998). For instance, the Better Life for Rural Women (BLFRW), the National Commission for Women Society (NCWS), as well as Women and Development Units in State Ministries of

Culture and Social Welfare, established for the purpose of improving the conditions and status of women created and increased the visibility of some few urban women elite while the struggles and demands of majority of the women at the rural areas were neglected and repressed (Jega 1996). Despite these criticisms, the efforts of the First Ladies in extending the frontiers of women activism were quiet notable.

The changing international and national legal framework and the growing global network of feminist movement in the post 1990, all contributed in the exponential growth in the number and diversity of women rights movement groups and organizations with varying interests and commitment towards promoting equal rights and opportunities for women and girls in Nigeria. These organizations attend to different women's rights issues within the private sphere of the family and in the public arena such as sexual and reproductive rights, economic empowerment, property ownership, environment, violence against women, early child marriages, misapplication of the Sharia law in some parts of the north against women interests, demand for Affirmative Action from government, political parties and the legislature etc. (Nawey.net. 2011). These women's leadership movements have defied stereotyping, stigmatization, among others, and have continued to work hard for the advancement of women's rights in Nigeria and Africa at large. Below are some notably ones that have persisted over the years.

Table 1: Women Organization and Objectives

S/N	Women Organization	Objective
1	The National Council of Women Society of Nigeria	Harmonizes position of all women in Nigeria irrespective of age, sex, ethnicity etc. to push for a common front and encourages women to participate in politics and decision making.
2	Baobab for Women's Human Rights	Focuses on women's legal rights issues under the three (3) systems of law -

		customary, statutory and religious laws in Nigeria
3	Centre for Citizens Emancipation and Empowerment (CFCEE)	Supports the fight against HIV/AIDS, poverty eradication and the promotion of human right through free legal assistance to the underprivileged of Nigerian citizens. CFCEE focuses on the liberation of women in purdah (the restriction of women to their Quarters practiced predominantly among Muslims in northern Nigeria).
4	Women's Consortium of Nigeria (WOCON)	Focuses on the fight against trafficking of women and girls through advocacy and creation of awareness.
5	Women's Rights Advancement and Protection (WRAPA)	Provision of legal aid and counseling services for women, mobilization and sensitization, skills training and advocacy for legal reforms.
6	Project Alert	Advocate and sensitise on practices like Female Genital Mutilation (FGM), female disinheritance, male child preference, Girl-Child marriage, sexual harassment and domestic violence.

Source: Authors' compilation from Nawey.net (2011).

These organizations, among others, have over the years, organized campaigns, public meetings, rallies and press events to raise awareness and advocate for change on variety of issues relating to physical, structural violence, socio-economic and cultural discrimination and marginalization of women in politics and governance (Policy and Legal Advocacy Centre PLAC 2018), with remarkable success.

Changing Attitude on the Role of Women in Politics and Governance

The activism of women leadership groups have made phenomenal impact in raising significant level of awareness on the role of women in nation building, particularly through participation in politics and governance. This awareness was created through long and consistent public campaigns in the mass media, political activism, advocacy and sensitization through variety of means including conferences, workshops, public demonstration, political representation, lobbying inter-alia. Over the years, this has translated into positive changes in public perception that have led to new attitude towards women as equal partners in progress with men in contrast to the primordial sentiment held against the role of women in public affairs held through the traditional Nigerian society till date. Sibani (2013) and Ibeanu (2009) shared this view when they asserted that the situation is gradually changing for women in Nigeria as their recruitment into the political and governance class is fast gaining acceptance.

Ibeanu (2009, p.2-3) identified four major socio-economic and cultural dimensions of these changes in Nigeria. The first is the growing "voice" and rising profile of women in the economy, community work and various spheres of professional and public engagements. The second is the gradual but steady withering of cultural restrictions on the perception of women in public affairs since the last three decades. The third is the rapid expansion in the work of activist women organizations supporting increased participation of women in politics and a resultant rise in the number of women joining politics and standing for elections. The fourth is the increasing tendency of women to take up economic roles in the family previously reserved for men and to question the myth of the "male-breadwinner" in many middle and low income families.

The transition from military to civil rule in Nigeria in 1999, contributed significantly to these changes by creating the civic environment for the introduction of a variety of favourable legal and policy responses. For instance, Nigeria became a Signatory to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) in 1979 and became a State Party when it ratified it in 1985 without reservations. The country also signed the Optional Protocol to CEDAW in

2000 and ratified same in 2004, even though they are yet to be domesticated. The Goal 5 of the Sustainable Development Goal (SDG) also ensures women's full and elective participation as well as equal opportunities for leadership at all levels of decision making in political, economic and public life. Similarly, Section 42 of the 1999 Constitution, as altered, provides that on no account should a citizen be discriminated based on community, ethnicity, place of origin, sex, religion or political opinion (CFRN 1999).

At the levels of political parties, the major political parties that have controlled government at the centre in Nigeria since 1999, namely; the People's Democratic Party (PDP) and the All Progressives Congress (APC), also crafted their Constitutions to accommodate the interests of women. Article 6 (1) and (5) of the PDP Constitution describes the character of the party as non-tribal, non-religious and non-sexist with a clear commitment to promote the emancipation of women by encouraging their representation at all levels and combat sexism (PDP 2012). Similarly, Article 7 (vii) of the APC Constitution specifies its aims and objectives to include the protection of the interests of all Nigerians such as farmers, women youths and persons with disability (APC 2019). This commitment concerning women is clearly captured in the party manifesto to include the protection of rights of women as enshrined in the Constitution; guarantee adequate representation in government and provide greater socio-economic opportunities; ensure gender equality and women empowerment especially in rural areas; and promote quotas for women in the National Assembly (APC 2014).

At the policy level, an important step was the establishment of the National Commission for Women (NCW) in 1989 with the aim of institutionalizing mechanism to increase women's political representation. In 1995, the NCW was upgraded to the Ministry of Women Affairs for the effective coordination of efforts to advance the cause of women across the country. A major milestone was achieved in 2000 with the development and adoption of the National Policy on Women in line with the goals of the CEDAW (PLAC 2018). This was later replaced by the National Gender Policy in 2006, which among others, seeks to build a society devoid of

discrimination and create equal opportunity for the realization of the full potentials of all citizens regardless of sex or circumstances; and create necessary conditions for the political well-being of all citizens and enjoyment of fundamental human rights.

Civil Society Organizations (CSOs) have responded to these changes in two but mutually reinforcing ways: First, the CSOs served as the agents of change with support from international development partners to develop programmes tailored at increasing women political participation. CSOs have consistently engaged stakeholders through sensitization and advocacy to catalyze legislative and policy reforms necessary for women to be adequately represented in politics and governance. Secondly, many CSOs gave women the opportunity to play leading and active roles in the movement to demand for equal opportunities for women. In addition, several of these gender-focused Non-Governmental Organizations (NGOs), such as Women Advocates Research and Documentation Centre (WARDC), Women Law and Development Centre, Women's Rights Advancement and Protection Alternative (WRAPA) and Association of University Women, among others, either were headed by women or have significant policy input from them. This development not only gave women visibility in national and international public space, but also frontline roles in demanding for socio-economic rights and political inclusion. There is no doubt that many of such women have played these role with demonstrable leadership qualities, which exposed their potentials and capacity to lead and provide effective political leadership.

Since the return to democracy in Nigeria in 1999, several women have been tested with higher responsibilities in politics and governance with remarkable records of performance. Examples of these women include: Ndi Okereke Onyiuke, as former Managing Director of the Nigerian Stock Excahnge; Prof. Dora Akunyili, as former Director General, National Agency for Food and Drugs Control (NAFDAC); Dr. Obiageli Ezekweseli, as former Senior Special Assistant to former President Olusegun Obasanjo on Budget Monitoring and Price Intelligence Unit; Mrs Evelyn Oputu, Managing Director of Nigerian Bank of Industry; and Dr.

Okonjo Iweala, as Minister of Finance during President Olusegun Obasanjo and President Goodluck Jonathan's administrations (Ngara and Ayabam 2013).

Ngara and Ayabam (2013) rightly noted that the performance of these women, among others, has lifted the profile and pedigree of the Nigerian women in positions of authority as hardworking, diligent, creative, enterprising and productive. Without skepticism, this has brightened the prospect for increased role for women in politics and governance in Nigeria however slow the progress on affirmative action and the gains in political inclusion. Today, the major goals of women's rights is not much related to the *de jure* recognition and consolidation of their legal equality to men but their real implementation, as the equality of men and women is still influenced by patriarchal stereotypes in society (Jureniene 2010, p.198).

It should be noted that Africa as a continent has made steady progress with respect to women representation in politics and governance. More women in Africa are now occupying portfolios traditionally reserved for men. For example, since 2017, there are 30% more women ministers of defense, 52.9% more women ministers of finance, and 13.6% more women ministers of foreign affairs (Musau 2019). Similarly, across Africa, remarkable feat have been achieved with respect to the percentage of women representation in parliament such as in Rwanda (61.3%), Namibia (46.2%), South Africa (42.7), and Senegal (41.8%). African countries have also recorded high percentage of women in ministerial position in Rwanda (51.9%), South Africa (48.6%), Ethiopia (47.6), Seychelles (45.5%), Uganda (36.7%), and Mali (34.4%) (Musau 2019).

In the 23rd February 2019 General elections in Nigeria, only 6 women, representing (5.45%), and 11 women representing (3.6%), were elected into the Senate and the House of Representatives, respectively (*The Guardian* 2019). Only about 7 women, representing 16.67% are serving as ministers in the President Muhammadu Buhari led administration. Although, Nigeria lags behind many countries in the world in terms of the percentage of women in politics and governance, there is however fundamental political, legal and social changes that accommodate

increasing roles for women in public affairs. In response, increasing number of women are taking advantage of these changes as they no longer conceal their interests to aspire to political and decision making positions as indicated in the Table 2 below:

Table 2: No. of Female Aspirants and Victors in the 2007, 2011, 2015 and 2019 General Elections in Nigeria.

Yr.	State House of Assembly		House of Reps.		Senate		Governor		President	
	Aspirants	Winners	Aspirants	Winners	Aspirants	Winners	Aspirants	Winners	Aspirants	Winners
2007	303	54	150	25	59	9	14	0	1	0
2011	261	57	222	12	92	7	1	13	1	0
2015	755	60	267	19	122	7	87	0	1	0
2019	1825	40	533	11	235	8	80	0	6	0

Sources: INEC (2019), Egwu (2015), Okoosi-Simbine (2011), Akpan (2018), Olurode (2013), *Premium Times* (2015) and Eze-Michael (2016).

Figures from the 2007, 2011, 2015 and 2019 General elections in Nigeria in Table 2 above shows that even though fewer women emerged winners at the poll, there were significant number of women aspirants across the different registered political parties. For the first time in the country's political history, there were about 7 female presidential aspirants (one withdrew at the last minutes), 22 vice presidential candidates, 285 deputy governorship candidates (INEC 2019). In spite of the gloomy picture presented by the few number successes registered by women at the 2019 General elections, there is however a bright future prospects of increased women participation in politics and governance if necessary steps are taken.

Major Challenges of Women in Politics and Governance

In spite of the growing acceptance of the role of women in politics and steady advances in public affairs in Nigeria, there are challenges bedeviling their effective participation in politics and governance. Some of the major challenges include:

- **Absence of Legal Framework for addressing Women Issues:** There is generally no comprehensive law in Nigeria that deals with the rights of women, be it political, socio-economic or cultural rights. Nigeria is a signatory to international instrument such as the CEDAW whose objective is to ensure women's equal access to, and equal opportunities in, political and public life- including right to vote and stand for election as well as education, health and employment (UN Women 2020). However, this convention is yet to be domesticated in Nigeria, hence its provisions are not actionable in local courts.

- **Slow Pace of Implementation of the Goal 5 of the Sustainable Development Goals (SDGS) in Nigeria:** A preliminary assessment of the SDGs in Nigeria by the Women Environmental Programme (WEP) in 2017, which sampled ten states shows that the country has not made significant progress with respect to the implementation of Goals 1, 4, 6 and 7. (Odogwu 2018). This goes for most of the targeted goals including Goal 5 which is targeted at achieving gender equality and empowerment for all women and girls (UN 2020). If this continues, it will inhibit and prevent more women from active participation in politics.

- **Existence of Cultural, Religious and other Structural Barriers**: Despite the gradual and progressive withering of structural barriers such as cultural and religious discrimination against women's participation in public affairs in Nigeria, it will be delusional to assume that they have been eradicated. Although, the degree and tempo in which they exists vary across the country, they still

constitute a huge barrier to effective women participation in politics.

- **Defective Educational Instruction:** There exists defective educational instructions both at the family and institutional levels that tend to encourage women to see themselves as good only for inferior housekeeping roles. Similarly, women are socialized into accepting professions such as teaching and nursing as "feminine;" and professions such as politics, engineering and medicine etc., are viewed as "masculine." Even though this trend is fast changing, it is still prevalent and tend to affect women negatively.

Conclusion

The prevalence in Nigeria of a traditional structures of unequal power relations between men and women, resulting in disproportionate distribution of rights and privileges has been an issue of great concern for many, particularly women. This state of affairs has led to various kinds of intervention by individuals and women groups in order to eradicate all forms of discrimination against women and promote gender balance in politics. The active roles of women's leadership over the years have raised remarkable awareness on the relevance of women in socio-economic and political development of the country. This awareness has in turn fostered new public attitude of accommodation and inclusion for women in politics and governance. This trend is evidenced by the increasing recognition of the role of women by successive government in Nigeria since the re-introduction of democracy in 1999. Although, the number of women in elective and appointive positions have continued to decline since then, there is no gainsaying that the interest of women in vying for elective and political positions have been on the increase. More importantly, the glass ceiling or societal barriers to women aspiration in politics have been progressively weakened and replaced with a universal *de jure* recognition of the rights of women to participate in public affairs. Although the implementation of this legal status varies across the country due to vestiges

of structural barriers, there is no doubt that a remarkable progress in gender balance in politics is been achieved.

Recommendations

Based on the foregoing conclusion, the following recommendations are hereby proffered:

1. An important step in achieving increased participation in politics and governance in Nigeria is the domestication of CEDAW in order to give it legal teeth and make its provisions actionable in local courts. This will improve fair treatment of women, access to opportunities as well as the removal of all form of discrimination against women and girl child.
2. In addition to the domestication of CEDAW, a law should be passed reserving at least 40% of seats for women in both the National Assembly, State Houses of Assemblies and Local Government Councils across the country. The legislation should also include a provision prescribing that 40% of candidates on political party list should be women. This form of affirmative steps is behind the successes recorded in Rwanda and South Africa in terms of higher women representation in politics.
3. Government should come up with deliberate policies and programmes to accelerate the removal of structural barriers, such as social, cultural and religious practices that inhibit women from participating in public affairs and limit their access to education, economic opportunities, security and other resources that are essential to become effective leaders. This can be achieved through aggressive enlightenment campaigns, sensitization and advocacy programmes. Similarly, women in leadership, women organisations as well as other stakeholders should complement government effort by intensifying and sustaining advocacy for the girl-child and women, particularly, the rights of women to participate in politics and governance. The National and State Assemblies should join the advocacy by including the mainstreaming of women in politics as part of their legislative agendas.

4. Government should intensify efforts at implementing the Goal 5 of the SDGs through the establishment of legal frameworks to institutionalize gender equality at all levels of socio-economic and political life of citizens as well as increase budgetary provisions for the programme. This is necessary to eliminate all forms of discrimination against women.
5. Government and NGOs should adopt gender budgeting as a way of promoting gender equality through fiscal policy and the allocation of resources based on their impact on men and women. This will help in reducing the disparities in access to opportunities arising from state policies and programmes.
6. Educational policy actors should put in place policies and programmes that emphasizes the promotion of women's rights from the foundation stages of girl's child education. Teaching of this should be introduced at all educational levels so as to foster awareness and to counteract the primordial notion "that boys are better than girls". Furthermore, parents should be sensitised on the fact that girls can perform as well as boys if given equal opportunities.

References

Abdulraheem, N. M. (2017). Women in the Political Process and Human Rights: The Nigerian Experience. *Anthens Journal of Law* x(y): 1-25.

Ajayi, K. (2010). *The Concept of First Lady and Politics in Nigeria* Dakar, Senegal: Council for the Development of Social Science Research in Africa (CODESRIA). Retrieved on 08/02/2020, from https://www.google.com/search?q=The+Concept+of+First+Lady+and +Politics+in+Nigeria&rlz=1C1CHFX_enNG608NG608&oq=The +Concept+of+First+Lady+and+Politics+in+Nigeria&aqs=chrome..69i57.703j0j9&sourceid=chrome&ie=UTF-8.

Akpan, N. E. (2018). Men without Women: An Analysis of the 2015 Elections in Nigeria. *International Journal of Arts and Humanities.* 7(4): 97-108.

All Progressives Congress [APC] (2014). *Manifesto of All Progressives Congress, Federal Republic of Nigeria.* Retrieved 10/02/2020, from https://www.allprogressivescongress .org/manifesto/

All Progressives Congress [APC] (2019*). Constitution of the All Progressives Congress, Federal Republic of Nigeria.* Retrieved 10/02/2020, from https://www.inecnigeria.org/wpcontent/uploads/2019/02/APC-Constitution.pdf.

Asaju, K. and Adagba, S. O. (2013). Women Participation in National Development in Nigeria: Imperative of Education. *Journal of Public Administration and Governance.* 3(1): 57-69.

Asiedu, K. G. (2019). Africa has forgotten the Women Leaders of its Independence Struggle. *Quartz Africa.* Retrieved on 08/02/2020, from https://qz.com/africa/1574284/africas-women-have-been-forgotten-from-its-independence-history/.

Cowell, A. (2008). Miriam Makeba, South African Singer, dies at 76. *The New York Times*, 10 November. Retrieved on 19/09/2020, from https://www.nytimes.com/2008/11/10/world/a frica/10iht-obits.4.17692767.html

Dike, F. I. (2012). *Nigeria: Enhancing Women participation in Politics and Governance, Matters Arising* Jabi, Abuja: Fair deal Press Ltd.

Egwu, J. U. (2015). Women Participation in the 2015 General Elections in Nigeria. *IJASOS-International E-Journal of Advances in Social Sciences.* 1(3): 395-403.

Ewens, G. (2008). Obituary: Miriam Makeba. *The Guardian*, 10 November. Retrieved on 19/09/2020, from http://www.amp-theguardian-com.cdn.Ampproject.org/v/s/amp.theguar dian.com/music/2008/nov/10/Miriam-makeba-obituary?

Eze-Michael, E. N. (2016). Political Participation and Socialization of Women in Nigeria: A Case of the Fourth Republic. *Research on Humanities and Social Sciences*. 6(22): 98-105.

Fakeye, Y., George, O. J. and Owoyemi, O. (2012). Women in Purgatory: The Case of Nigerian Women in Boardrooms. *Asian Journal of Business and Management Sciences* 1(10): 134-150.

Federal Republic of Nigeria (1999). *Constitution of the Federal Republic 1999, as Amended.* Lagos.

Fonjong, L. (2001). Fostering Women's Participation in development through Non-governmental Efforts in Cameroon. *The Geographic Journal*. 167(3): 223-234.

Haralambos, M. and Holborn, M. (2008). *Sociology themes and perspective.* London: Haper Collins.

Ibeanu, O. (2009). Historicizing the Marginalization of Nigeria Women in Politics. In J. Mangvwat, O. Ibeanu, and S. Mahdi (eds), *Election*

HER stories: Political Experiences of Women in Nigeria. Abuja: Gender Affirmative Action, Coalitions for Change and DFID.

Ikpe, E. B. (1997). The Role of Women in National Development. In Osunkotun, A. and Olukoju, A. (eds.), *Nigerian People and Cultures.* Ibadan: Davidson Press.

Independent National Electoral Commission [INEC] (2019). *2019 General Election Candidates*. Retrieved 13/02/2020, from https://www.inecnigeria.org/elections/election-candidates/

Irabor, F. O. (2011*). Review of Women's Participation and Performance at the 2011 General Elections in Nigeria*. Retrieved 10/02/2020, from http://baobabwomen.blogspot.com/2011/05/reviewing-womens-participation-and.html

Jega, A. (1996). The State and Identity Transformation under Structural Adjustment in Nigeria. In A. Jega (eds.), *Identity Transformation and Identity Politics under Structural Adjustment in Nigeria*, (pp. 24-40), Kano: Nordiska Afrikainstitutet and Centre for Research and Documentation.

Jubrin, I. (2004). *The First Lady Syndrome and the Marginalization of Women from Power: Opportunities or Compromises for Gender Equality?* Retrieved on 07/02/2020, from https://pdfs.semanticscholar.org/0859/b96c7dae7f0c030a3875348f8f12f4f880ad.pdf?_ga=2.58420522.1485268845.1581007700-1094949560.1521394970.

Jureniene, V. (2010). Stereotypical Character of Society in the 2nd Republic of Lithuania: Women's attempt to be equal Partners in the State. In Husu, L., Hearn, J., Lamsa, A. and Vanhala (eds.) *Leadership through the Gender Lens: Women and Men in Organization*, (pp. 198-206), Helsinki, Finland: Edita Prima Ltd.

Kolawale, T. O., Abubakar, M. B. and Owonibi, E. (2012). Gender and Party Politics in Africa with Reference to Nigeria. *International Journal of Politics and Good Governance* 3(3.4): 1-26.

Luka, R. C. (2011). Women and Political Participation in Nigeria: The Imperatives of Empowerment. *Journal of Social Sciences and Public Policy* 3: 24-37.

Matera, M., Bastian, M. L. and Kent, S. K. (2012). *The Women's War of 1929: Gender and Violence in Colonial Nigeria.* UK: Palgrave and Macmillan.

Musau, Z. (2019). African Women in Politics: Miles to go before Parity is Achieved. *African Renewal.* Retrieved on 08/02/2020, from https://www.un.org/africarenewal/magazine/ april-2019-july-2019/african-women-politics-miles-go-parity-achieved.

Nawey.net (2011). *Analysis of the History, Organization and Challenges of Feminism in Nigeria.* http://www.nawey.net/wp-content/uploads/downloads/2012/05/Feminism-in-Nigeria.pdf.

Nelson, E. E. (2012). Democracy and the Struggle for Political Empowerment of Women in Nigeria. *International Journal of Advanced Legal Studies and Governance.* 3(1): 85-99.

Ngara, C. O. and Ayabam, A. T. (2013). Women in Politics and Decision Making in Nigeria: Challenges and Prospects. *European Journal of Business and Social Sciences.* 2(8): 47-58.

Obiyan, A. and Akindele, S. T. (2002). The Federal Character Principle and Gender Representation in Nigeria *Journal of Social Sciences.* 6(4): 241-246.

Okoosi-Simbine, A. T. (2011). Gender Politics and the 2011 Elections. *Journal of African Elections.* 11(1): 74-99.

Olurode, L. (2013). State and Political Participation: Women in Nigeria's 2011 Elections. *Friedrich Ebert Stiftung (FES) Discussion Paper No. 4*. April. Retrieved 13/02/2015, from https://library.fes.de/pdf-files/bueros/nigeria/10192.pdf.

Owoh, K. (1998). *Creating Room for Manoeuvre: Structural Adjustment and Women Resistance in Nigeria.* PhD thesis. York University, North York Ontario.

People's Democratic Party [PDP] (2012). *Constitution of the People's Democratic Party, Federal Republic of Nigeria (As Amended)*. Retrieved 10/02/2020, from http://peoplesdemocraticparty.com.ng/wp-content/uploads/2018/08/PDP-CONSTITUTION-2012-AMENDMENT1.pdf

Policy and Legal Advocacy Centre [PLAC] (2018). *Women's Political Representation in Nigeria: Why Progress is Slow and what can be done to Fast-track it*. Policy and Legal Advocacy Centre (PLAC), Ford Foundation. Retrieved 08/02/2020, from resentation-.placng.org/wp/wp-content/uploads/2018/06/Women-Political-Reppdf.

Politics and Society (2015). *Africa's 10 iconic women leaders*. Retrieved on 08/02/2020, from https://thisisafrica.me/politics-and-society/africas-10-iconic-women-leaders/ February 20.

Premium Times (2015). Analysis: 2015 Elections hold no Promise for Improved Women Representation in Nigerian Politics. March 26. Retrieved 13/02/2020, from https://www.premiumtimesng.com/features-and-interviews/179136-analysis-2015-elections-hold-no-promise-for-improved-women-representation-in-nigerian-politics.html

Sibani, C. M. (2017). Gender Inequality and its Challenge to Women Development in Nigeria: The Religious Approach. *Unizik Journal of Arts and Humanities* 18(2): 432-449.

Simola, R. (1999). The Construction of a Nigerian Nationalist and Feminist, Funmilayo Ransome-Kuta. *Nordic Journal of African Studies.* 8(1): 94-114.

Tashi, M. (2012). The Potentials of Women in Political Development: The Case of Plateau State. *Multidisciplinary Journal of Research Development*. 2(1): 95-106.

The Guardian (2019). 2019 Polls offer less Opportunity for Women Involvement in Legislative Politics. Politics and Policy: 20 Thursday April 4. Retrieved on 08/02/2020, from www.guardian.ng.

Odogwu, G. (2018). Assessing SDGs Implementation in Nigeria. *The Punch* July 5. Retrieved on 18/09/2020, from https://punchng.com/assessing-sdgs-implementation-in-nigeria/.

Oluyemi, O. (2016). Monitoring Participation of Women in Politics in Nigeria. Retrieved on 19/09/2020, from https://unstats.un.org/unsd/gender/Finland_Oct2016/Documents/Nigeria_paper.pdf

United Nations Educational and Cultural Organization [UNESCO] (2019). *Women in African History*. Retrieved on 06/01/2020, from https://en.unesco.org/womeninafrica/.

UN Women (2020). Convention on the Elimination of all Forms of Discrimination against Women. Retrieved on 18/09/2020, from https://www.un.org/womenwatch/daw/cedaw/

UN (2020). Goal 5: Achieve Gender Equality and Empsower all Women and Girls. Retrieved on 18/09/2020, from https://sdgs.un.org/goals/goal5.

Wole-Abu, N. A. (2018). Nigerian Women, Memories of the Past and Visions of the Future through the Communication Narratives of the Media. *Global Media Journal.* 16 (31): 1-7.