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CONTENTS

PUBLIC ADMINISTRATION	5
EMPIRICAL ANALYSIS OF ELECTORAL GOVERNANCE AND DECENTRALIZATION Joseph Adeshola ADEKEYE Suleiman Umar ADEIZA Ayi Joseph OTU	7
INVESTIGATION OF THE EXTENT OF COMPLIANCE WITH LAGOS STATE PUBLIC PROCUREMENT LAW: A SURVEY IN THE SELECTED MINISTRIES AND AGENCY Adewunmi Adelore ADEWOYIN Olubisi Dorcas ADEDIRAN	27
FEDERAL CHARACTER AND THE ETHICS OF ETHNIC BALANCING IN NIGERIAN UNIVERSITIES Olalekan Eyitayo AJIBADE Adewale Bashir ADEBAYO	38
BANDITORY AND SECURITY THREATS: AN ANALYSIS OF INSECURITY IN NIGERIA Daniel Mevayerore IGBINI	53
GOVERNMENT ADMINISTRATION: MANAGEMENT OF RECRUITMENT PROCESS AND EMPLOYEE JOB PERFORMANCE IN UGANDA R. IMUCHERI S.J. KAKUBA	63
CONSTITUTIONAL DEMOCRACY AND THE INFLOW OF FOREIGN DIRECT INVESTMENTS: THE NIGERIAN EXPERIENCE Adebayo T. SALAMI	87
ADMINISTRATION CITY INSTITUTIONAL ARRANGEMENT MODEL IN THE IMPLEMENTATION OF LOCAL GOVERNMENT IN INDONESIA Dhany SUKMA Sumartono Khairul MULUK Fadillah AMIN	106
FINANCE	117
FISCAL NEUTRALITY HYPOTHESIS: AN ANALYSIS OF THE NIGERIAN LOCAL GOVERNMENT REVENUE AND EXPENDITURE Gbenga Festus BABARINDE	119
TAXATION OF DIGITAL ACTIVITIES: AN EVALUATION OF THE NIGERIAN APPROACH IN A GLOBAL CONTEXT Oluwafunmilayo Mary BANKOLE David O ADETORO	131
A PERSPECTIVE ON THE RECENT THEORETICAL AND EMPIRICAL FINDINGS REGARDING THE PONZI SCHEMES Eldad BAR LEV	138
PREDICTIVE MODELS APPLIED IN SPORTS MANAGEMENT – LITERATURE REVIEW ON RESEARCH TRENDS Irina-Cristina COJOCARIU	148
COMPARATIVE APPROACH UPON ORGANIZATIONAL CULTURE MODELS Tudor IRIMIAȘ Zenovia-Cristiana POP	154
POVERTY ALLEVIATION POLICIES: CATALYST FOR ECONOMIC DEVELOPMENT OF NIGERIA R. A. ITIVEH	168
INVESTMENT LEGAL RECONSTRUCTION IN DEVELOPING LOCAL WISDOM-BASED TOURISM INDUSTRY FROM INDONESIA	176

Lis JULIANTI Retno MURNI Ni Nyoman SUKERTI Putu Tuni CAKABAWA LANDRA	
STATUS AND CHALLENGES OF PREPARING AND SUBMITTING FINANCIAL STATEMENTS TO CONSTRUCTION COMPANIES IN GEORGIA	185
Lela KHELADZE	
HIGHLY UNUSUAL FEATURES OF THE 2020 U.S. RECESSION	190
Suk KIM Min XU Jeanne DAVID	
FRACTAL MARKET HYPOTHESIS VS. EFFICIENT MARKET HYPOTHESIS: APPLYING THE R/S ANALYSIS ON THE ROMANIAN CAPITAL MARKET	199
Ana-Maria METESCU	
HOW DOES FINANCIAL MARKET STRESS RESPOND TO SHOCKS IN GLOBAL ECONOMIC ACTIVITY AND EXCHANGE RATE STABILITY? A STRUCTURAL VAR APPROACH	210
Baneng NAAPE Bekithemba QEQE	
IMPROVING LOCAL GOVERNMENT PERFORMANCE THROUGH FINANCIAL AUTONOMY AND ACCOUNTABILITY AT NIGERIAN STATE	222
Abiodun Richard OBISANYA Ibrahim Korede HASSAN	
ON THE IMPORTANCE TO STUDY OLDER ADULT'S WELL-BEING	236
Alexandra-Cristina SIRBU	
MONETARY INFLATION AND FISCAL SPENDING IN NIGERIA	242
Anu Keshiro TORIOLA Walid Gbadebo ADEBOSIN Adegboyega Sule OYEWOLE Felix ABERU	
LAW	255
IMPLICATIONS OF INTERFAITH MARRIAGE DIVORCE ON CHILDREN'S CARE RIGHTS IN INDONESIA	257
Putu Ayu Diah LAKSMI DEWI I Nyoman SUJANA Putu Ayu SRIASIH WESNA	
THE ISSUANCE OF AN OVERLAPPING CERTIFICATE OF LAND RIGHTS IN INDONESIA	262
I Nyoman RENALDI MAHARDIKA I Made SUWITRA I Made PRIA DHARSANA	
LAW AND PUBLIC PARTICIPATION IN INDONESIA	275
Morus Maxine SIANIPAR Muchamad Ali SAFA'AT Tunggul SETIA NEGARA Aan Eko WIDIARTO	
URGENCY OF REGULATING LEGAL PROTECTION FOR FOREST AND LAND FIRE VICTIMS IN THE FORM RESTITUTION BASED ON SOCIAL JUSTICE PRINCIPLE IN INDONESIA	285
Agus SUYANDI RONI Iwan PERMADI	
INTEGRATION MODEL OF ENVIRONMENTAL DISPUTE SETTLEMENT OUTSIDE THE COURT BETWEEN LOCAL COMMUNITIES AND CORPORATIONS	295
Erwin SYAHRUDDIN Moh.FADLI Rachmad SAFA'AT ISTISLAM	
ON EFFICIENCY, BARGAINING POWER AND INFORMATION ASYMMETRY.	304
Ioan ŞUMANDEA-SIMIONESCU	
STUDY OF SPECIALIZED LITERATURE - PUBLIC POLICIES TO SUPPORT DIRECT INVESTMENT IN THE CONTEXT OF SUSTAINABLE DEVELOPMENT" -	318
Adelina-Andreea SIRITEANU	



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PUBLIC ADMINISTRATION

EMPIRICAL ANALYSIS OF ELECTORAL GOVERNANCE AND DECENTRALIZATION

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Joseph Adeshola ADEKEYE

Department of Public Administration
Federal University Lokoja
jossy2014@gmail.com

Suleiman Umar ADEIZA

Department of Public Administration
Federal University Lokoja
opele1970@yahoo.com

Ayi Joseph OTU

Department of Public Administration
University of Abuja
ayijoseph81@gmail.com

Abstract: *It has been a subject of debate among scholars and political analysis on whether election governance is a prerequisite for ensuring successful decentralization. This is not unconnected with the general notion that the extent of decentralization in any political set-up is solely dependent on the desire of higher levels of government to share its powers with the lower tiers of government. Therefore, this paper examines the roles of electoral governance in the enhancement of successful decentralization. The main thrust of the paper is to determine the implications of electoral process on decentralization. Descriptive survey was adopted for the purpose of data collection. Purposive sampling was used to sample 280 respondents out of a total population of 1,282. Out of a total of 280 questionnaire administered to the staff of Independent Electoral Commission (INEC), Abuja. 264 were completed and returned accordingly. The statistical tool used of testing the validity of hypotheses is chi-square analysis. The research findings revealed that election governance has great role to play in the enchantment of successful decentralization. This is not unconnected with the fact that pluralistic politics during elections and representative government bequeath more influence to citizens, or their representatives in the formulation and implementation of policies. Also, it was discovered that the decisions made with greater participation through favourable electoral governance will be better informed and more relevant to diverse interests in society than those made only by national political authorities. Above all, the selection of representatives from local electoral jurisdictions allows citizens to know better their political representatives and allows elected officials to know better the needs and desires of their constituents. The study therefore recommended that electoral governance should give room for popular participation in grassroots democracy thorough political education and sensitization in order to guarantee successful decentralization.*

Keywords: *Electoral Governance, Election, Electorates, Electoral Law, Constitution, Decentralization, Democracy*

Introduction

Election refers to the process of choosing leaders who will hold political offices at the central, State and local government levels. Election in Nigeria is usually held periodically based on constitutional provisions. Electoral governance on the other hand is

the procedures, rules, processes, methods, techniques and mechanism put in place for the conduct of elections by a given electoral body. In Nigeria for example, the Independent National Electoral Commission (INEC) is charged with the responsibility of managing elections at the national level while the State Independent Electoral Commission is responsible for conducting elections at the local government level.

The management of elections by any given electoral body deals with the delimitation of constituencies/polling units, registration of political parties, voter registration, issuance of voters cards, display of eligible voters in each respective polling units, voters education, fixing of election date, procurement of election materials, conducting accreditation for voters before the commencement of elections, collation/counting of votes, declaration of election results and issuance of certificate of returns to winners of elections. The nature of electoral governance to a large extent determines the level of decentralization in a political process. In the opinion of Rondinelli (1999), decentralization entails 'the transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations or the private sector'. The above definition views decentralization as a situation whereby the functions of government are transferred from higher to lower authorities. On the other hand, decentralization could take the form of deconcentration which involves the delegation of powers from the central to local authorities for the mere purpose of ensuring administrative convenience.

Suffice it to say that the determination of whether decentralization would take the form of transfer of delegation of authority from higher to lower levels of government in a democracy depends largely on the nature of electoral governance. For instance, if electorates are offered the opportunity to participate in determining the manifestos of political parties, determining the winners of elections and the implementation of policies and programmes, decentralization tends to take the form of transfer of authority. On the other hand, if the electorates are not offered the opportunity to elect their leaders in a transparent electoral process, determine party manifestoes or participate in policy implementation, decentralization may take the form of delegation of authority to local units. In light of the above, this study intends to determine the implications of electoral governance on decentralization in a political process.

Statement of the Problem

Scholars are in dilemma on the system of government that can guarantee the decentralization of powers through free and fair electoral governance process. This is so because the assumption that electoral governance in a federal system of government has the tendency of enhancing popular participation in governance both at the central, regional and local levels appears inapplicable in all situations. For instance, electoral governance may even guarantee higher decentralization of powers to local units than a federation if there is popular participation in the electioneering process at the grassroots level.

Electoral governance in a federal state such as Nigeria has encouraged the centralization of powers at the federal levels due to lack of popular participation in the electoral process at the grassroots level. This may not be unconnected with the rampant cases of vote buying, election rigging, electoral violence, inconclusive elections, disenfranchisement of eligible voters, poor implementation of electoral reforms, executive

recklessness, bureaucratic and political corruption, godfathersim and manipulation of electoral results. In most cases, electorates are no longer interested in participating in the electoral process since their votes no longer count. Nigeria's elections since independence have been the survival of the fittest. The electioneering campaigns of political actors over the decades have been built on hate speech, 'do or die' affair; whereby outcome of elections have been marred with so much irregularities and violence. As a matter of fact, election which is one of the fundamental elements of democracy has been a thing of war.

Another challenge of electoral governance and decentralization is the illegal pattern of transfer of political powers. Nigeria has been bedeviled with so-called political godfathers over the decades. These political 'elites' are king makers; they wield so much political powers during and after elections and the allocation of political offices are most times their exclusive rights to disburse among their political puppets (public office holders are answerable to the whims and caprices of the godfathers). The political godfathers have the power to unseat any public office holders who goes against their will or desires. Above all, state Governors in Nigeria have subjugated the constitutional powers accorded to the local government chairmen. There have been instances whereby the State Governors refused to conduct local government elections; instead, they appoint care-taker committee members or administrators who are loyal to them. In efforts towards addressing the research problems of this paper, the following research questions are raised:

- To what extent is popular participation in the electioneering process at the grassroots level determinant of the level of decentralization?
- In what way is the involvement of people at the grassroots levels in policy formulation and implementation determinant of the nature of decentralization?
- To what extent is the determinant of who wins general elections by the people at the grassroots level reflective of nature of decentralization?

Objectives

The general aim of this paper is to determine the implications of electoral governance on decentralization. However, the specific objectives are to:

- i. Examine the extent to which popular participation in the electioneering process at the grassroots level determinant of the level of decentralization
- ii. Determine the ways in which the involvement of people at the grassroots level in policy formulation and implementation reflective of the extent of decentralization
- iii. Investigate the extent to which the sole determinant of who wins elections is by the people at the grassroots level reflective of the nature of decentralization

Statement of Hypothesis

There is no significant relationship between popular participation in the electioneering process and the extent of decentralization

- ii. There is no significant relationship between the involvement of people at the grassroots level in policy formulation and implementation and extent of decentralization
- iii. There is no significant relationship the determinant of winners of elections by the people at the grassroots level and the extent of decentralization

Theoretical Framework

The central idea in this paper is hinged on decentralization theory which has its roots in the works of to Madison and Rousseau, in the 17th and 18th Centuries. Both scholars have divergent views on decentralization. For example, in the Federalist Papers No 39 (FP39), Madison was of the opinion that leaders must derive their powers “directly from the great body of the people,” which means that powerful locals and “not inconsiderable handful of nobles are exercising their oppression by a delegation of their powers”. Madison believes that the people at local level must be given the mandate to elect their leaders as a way of “composing independent regions, to which they respectively belong” (Wolman 1990; Rossiter, 1961). Rousseau (1772) in Jacob and Ganiyu (2015), also favored small government. In his view, “rulers overburdened with business, see nothing for themselves: clerks govern”. Using the Poland political system as study, Rousseau, who advocated for a political reformation, instructed the poles to perfect and extend the authority of their provincial parliaments to avoid the dangers of larger state bureaucracies Jacob and Ganiyu (2015). By this assertion, Rousseau was insisting on the essentials of local representation (decentralization).

Furthermore, one of the contributors’ to decentralization theory known as Stigler’s, advocated for two principles; (1) the closer a representative government is to the people, the better it works; (2) people should have the right to vote for the kind and amount of public services they want (Stigler, 1957) in Jacob and Ganiyu (2015). Earlier advocates of decentralization theory paid more emphasis on political representation while the modern day decentralization advocates both democratic principles and functional performances. Decentralization is applicable to this paper since the nature of electoral governance will go a long way in determining whether decentralization would operate in form of deconcentration, devolution, delegation or privatization. An electoral system that gives room for popular participation and the recruitment of political leaders based on the will of people at the grassroots level would translate to decentralization by devolution while electoral governance that manipulate the electoral process in order to elected unpopular candidates in general elections would translate to decentralization by deconcentration.

Conceptual Analysis

In efforts towards ensuring a full grasp of the focus of this paper by interested readers, some term considered relevant to the study are conceptualized below:

(a) Electoral Governance

The concept ‘electoral governance’ is most times linked with electoral administration. Electoral governance examines the interconnectivity of political powers in relation to events surrounding elections. It has to do with the general consensus of the people to agree to a particular political power. Public officers are elected in different positions, ranging from the federal government to local governments as the case maybe in Nigeria or in a country that operates federalism. Elections remain one of the fundamental ways to ascertain the choice of the people concerning their political representatives as well as the nature of government to be adopted. Electoral governance goes beyond mere mechanisms of establishing regulatory bodies and rules concerning electioneering process in a country.

Mozaffar and Schedler (2002) define electoral governance as the wider set of activities that creates and maintains the broad institutional framework in which voting and electoral completion take place. They went further to state that electoral governance operates on three levels namely; rulemaking, rule application, and rule adjudication. The rule making deals with formulating the blueprint of rules governing electoral game. Rule application has to do with executing rules to organize the electoral game while rule adjudication deals with conflict resolutions arising from the electoral game.

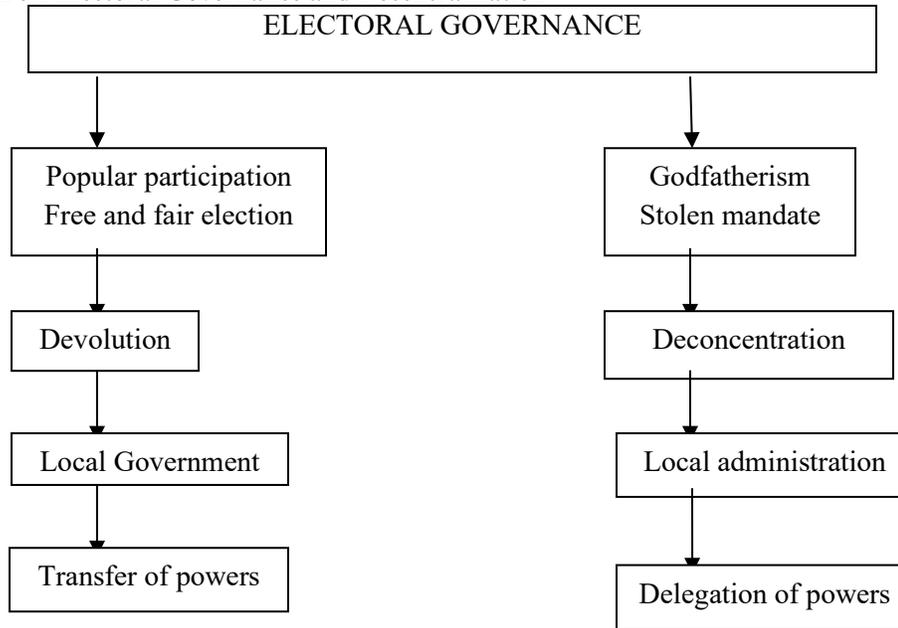
At the level of rule making, important issues such as electoral formula, electoral districts, magnitude of the elections, election dates and venues and other things ensuring that the elections is free and fair for all stakeholders. The rule application issues such as registration of political parties, candidates and voters, ballot boxes distribution, elections mechanisms to ensure there is transparency and efficiency during the elections. Rule adjudication addresses conflicts resulting from the election game. Apart from resolving election conflicts, this stage also deals with vote tallying and the announcement of final results (Mozaffar and Schedler, 2002). Luis and Edwin (2015), collaborated the study of Mozaffar and Schedler by asserting that electoral governance can be divided into three stages namely; formation of regulatory bodies and norms, implementation of these norms and dispute resolution. According to them, these three stages take electoral governance deeper than election administration.

According to Marchetti (2011), there are scholars who have argued that in recent democracies, a regime's greater or lesser stability is a function of the electoral governance model adopted in that country. Put differently, good electoral governance allocates credibility to election results and by extension enhances the quality of governance. According to Kurfi (1983) in Osita (2016), a representative democracy is representative to the extent that is 'absolutely depends upon the integrity of elections. On the whole, this paper conceive electoral governance as all the processes and procedures put in place by electoral laws for the smooth conduct of general elections through the instrumentality of electoral body set up by constituted authority or government. Electoral governance can only guarantee free and fair election when it is fully independent to discharge assigned responsibilities without under interference from government.

(b) Decentralization

The concept decentralization can be better understood from the term 'centralization'. Centralization in politics can be referred to a system whereby powers are majorly residing in one single authority (that is, the central government). Centralization does not give room for distribution of powers across tiers or arms of government. From this explanation, we could say 'decentralization' is the adverse of centralization. It refers to a system of government whereby powers are distributed across the various levels or arms of government within a state. The essence of decentralization is to promote effective governance and even development across the levels and arms of government. Several scholars have attempted to define decentralization. According to Rondinelli (1999) decentralization entails 'the transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations or the private sector'. The transfer can be through deconcentration, delegation, devolution or privatization/deregulation and involves (a combination of) dimensions of fiscal, administrative, political and economic powers and functions (Rondinelli, 1981, 1999; Steiner, 2005; Rondinelli & Cheema, 2007; Phillip, 2009).

Figure 1 Electoral Governance and Decentralization



Decentralization can be classified into three (3) and these are:

(a) Administrative Decentralization that involves the transfer of central government structures and bureaucracies to local level (Cheema & Rondinelli, 2007). It entails the following:

i. Deconcentration, where the authorities at the sub-national level plan and deliver services while remaining fully accountable to the appointing central office. Deconcentration is the presence of central government in local areas. The federal government may decide to by-pass the state government to carry out developmental projects in local government areas and sometimes these projects may negate local felt needs of the people. However, Blunt and Turner (2007) are of the opinion that deconcentration can be of utmost benefit to the local people. Some of these benefits include: equity in resource distribution, stability and consistency of resource allocation and highly skilled manpower available to the local population.

ii. Delegation, refers to a process whereby the central government transfer responsibilities to semi-autonomous government bodies, agencies of ministries to carry out projects or provide some certain kinds of public services to the local people.

(b) Political Decentralization is a type of decentralization which is also known as democratic decentralization and it entails the transfer of administrative, fiscal and political powers and functions of public service delivery to elected local governments. This type of decentralization gives local some sort of autonomy to carry out their responsibilities without undue interference from the state of federal governments. It is similar to devolution and it is seen as one that allows local government implement their own policies and make their own decisions (Brinkerhoff, et al., 2007) posit that political decentralization is seen as the most conducive approach towards effective citizen participation in influencing local service delivery.

(c) Fiscal decentralization refers to the ways revenues are shared among the tiers of government. Revenue is an important aspect of governance because adequate funds are

required to carry out capital projects. There are four important factors affecting fiscal decentralization and these are; assigning of clear expenditure responsibilities; clear revenue responsibilities; intergovernmental fiscal transfer mechanisms from the central to local governments; and authorization for borrowing and revenue mobilization through loan guarantees from the central government (Phillip, 2009). Fiscal decentralization is rarely implemented alone but rather accompanies political and administrative decentralization. According to Wachira (2010) fiscal decentralization is also pursued to ‘facilitate and enhance citizen participation in identifying their development priorities’. This argument underscores the primary role of citizens in ensuring resources are economically, efficiently and effectively applied for their development. There are four dimension of decentralization as shown in table 1 above.

Table 1: Types and Dimension of Decentralization

Dimension	Types			
	Deconcentration	Delegation	Devolution	Privatisation
Administrative	x	x	x	x
Fiscal	x	x	x	
Political	x	x	x	
Economic/Market	x			

Source: Steiner, 2005, p.10

Methodology

This paper adopted the descriptive survey a research design. This became necessary in order to interrogate the perception of respondents on issues regarding electoral governance and decentralization. The opinions, beliefs and observations of respondents were sought through the administration of questionnaire before determining the relationship between dependent and independent variables.

Sources of Data

It became imperative to adopt both the primary and secondary sources of data collection in order to ensure in-depth analysis of results. The primary data was used in order to obtain first hand information from the respondents through the administration of structured questionnaires. The secondary method on the other hand focused on content analysis of documents and reports such as; Electoral Reform Acts, 1999 Constitution of the Federal Republic of Nigeria and official publications by the Independent National Electoral Commission (INEC).

Study Area

The structure of Nigeria’s election governance system is embodied in the INEC. INEC was established by Section 153 of the 1999 Constitution of the federal republic of Nigeria as a corporate body with perpetual succession and may sue and be sued in its corporate name. According to part one (1) of the third schedule of the 1999 constitution of Nigeria, sub section 15, INEC has the power to:

Organize, undertake and supervise all elections to the offices of the President and Vice President, the Governor and Deputy Governor of a state and to the membership of the Senate, the House of Representatives and the House of Assembly of each state of the federation

Register political parties in accordance with the provisions of the constitution and act of the National Assembly.

- c. Monitor the organization and operation of the political parties, including their finances.
- d. Arrange for the annual examination and auditing of the funds and account of political parties and publish a report on such examination and audit for public information.
- e. Arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under the constitution.
- f. Monitor political campaigns and provide rules and regulations which shall govern the political parties.
- g. Ensure that all electoral commissioners, electoral and returning officers take the oath of office prescribed by law
- h. Delegate any of its powers to any resident electoral commissioners
- i. Carryout such other functions as may be conferred upon it by an act of the National Assembly (1999 Constitution of Nigeria).

Population of Study/Sample Size

The staff of the Independent National Electoral Commission (INEC), Headquarter Office, Abuja constitute the population of this study. The target populations are junior, senior and management staff in INEC Headquarter Office, Abuja. The table below shows the population of staff in INEC from 31 departments.

Table 2: Population of the Study

S/NO	DEPARTMENT	NUMBER OF STAFF
1	Administration	52
2	ADR	16
3	Audit	36
4	Chairman's Office	12
5	Clinic	61
6	COMM. SEC.	16
7	COMMR, S.A. SOYEBI'S OFF	2
8	Commr. Amina Zakari's Office	3
9	Commr. Anthonia Simbine's Office	3
10	Commr. Baba Shettima Arfo	4
11	Commr. Moh' d M. Lecky Office	3
12	Commr. Nwurukwu's Office	4
13	CPM	3
14	Donor Agencies Liaison	3
15	Elect. Ops	85
16	EPM	55
17	EW & T	292
18	Finance and Account	81
19	HRM	83
20	IC & P	22
21	ICT	80
22	Legal	46
23	Logistic and Transport	5
24	P & M	42
25	Procurement	23
26	Secretary's Office	13
27	Security	46
28	Stores	50

29	Tel	27
30	VEP, GCSO	76
31	Voter Registry	42
	Total	1282

Source: Human Resource Department, INEC, 2020

Sampling Techniques

Purposive sampling was employed to select the Departments, divisions, units and sections that have access to the required information for this paper. They include the; Administration, Chairman’s Office, Finance Account, ICT, Secretary Office and Voter Register. The above action was carried out in agreement with the opinion of Black (2010) who posits that purposive sampling is a non-probability sampling method and it occurs when elements selected for the sample are chosen by the judgment of the researcher. Researchers often believe that they can obtain a representative sample by using a sound judgment, which will result in saving time and money”. The total number of staff in the selected departments, units and divisions above are tabulated below as sample size.

Table 3: Sample Size

S/NO	DEPARTMENT	NUMBER OF STAFF
1	Administration	52
2	Chairman’s Office	12
3	Finance and Account	81
4	ICT	80
5	Secretary Office	13
6	Voter’s Registry	42
	Total	280

Method of Data Analysis

The questionnaire responses were coded using 3 (High), 2 (Average) and 1 (Low) and mean result of 2.5 upward is regarded positive or high while mean result of 2.0 below is regard negative or low. The data generated through questionnaire were analyzed using Statistical Package for the Social Sciences (SPSS). The descriptive analysis was based on cumulative frequency tables, mean average, standard deviation, histogram and the hypotheses were tested using Chi-square and Pearson Correlation Co-efficient inferential tools.

Data Presentation and Analysis

This aspect of the paper focused on the presentation, analysis and interpretation of data obtained from field survey out of a total of 280 structured questionnaires administered to selected staff of Independent National Electoral Commission (INEC) in Headquarters Office, Abuja, 264 were properly completed and returned accordingly. The breakdown of administered and returned questionnaire is presented in table below:

Table 4: Analysis of Administered and Returned Questionnaire

S/NO	DEPARTMENT	Administered Questionnaire	Returned Questionnaire
1	Administration	52	49

2	Chairman's Office	12	11
3	Finance and Account	81	79
4	ICT	80	78
5	Secretary Office	13	10
6	Voter's Registry	42	37
	Total	280 (100%)	264 (94.3%)

Source: Field Survey, 2021

Data Presentation and Analysis

The results derived from the first section of the questionnaire, which has to do with the personal information of the respondents are hereby presented.

Table 5: Distribution of Respondents by Age

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	20-30 years	54	20.5	20.5	20.5
	31-40 years	65	24.6	24.6	45.1
	41-50 years	86	32.6	32.6	77.7
	51 years and above	59	22.3	22.3	100.0
	Total	264	100.0	100.0	

Source: SPSS Version 23

Table 5 presents the age respondents. The result shows that 54 (20.5%) of target population are within the age bracket of 20-30years, 65 (24.6%) are within 31-40years, 86 (32.6%) are 41-50years while the remaining 59 (22.3%) are 51 years and above. On the whole, the respondents who are between 41-50 years of age got the largest score in the entire distribution. However, all the different age groups in the organisation are represented.

Table 6: Distribution of Respondents by Sex

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	165	62.5	62.5	62.5
	Female	99	37.5	37.5	100.0
	Total	264	100.0	100.0	

Source: SPSS Version 23

On issues regarding the sex of respondents, table 6 exhibited that 165 (62.5%) are male while the remaining 99 (37.5%) are females. The final analysis indicated that the male respondents got the highest scores in the entire distribution. This is not unconnected with the fact that male respondents are more than their female counterparts in Independent National Electoral Commission (INEC), Abuja.

Table 7: Distribution of Respondents by Marital Status

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Single	94	35.6	35.6	35.6
	Married	133	50.4	50.4	86.0
	Divorced	15	5.7	5.7	91.7
	Separated	22	8.3	8.3	100.0

Total	264	100.0	100.0
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Source: SPSS Version 23

In table 7, the result obtained indicated that 94 (35.6%) of the respondents are single, 133 (50.4%) are married, 15 (5.7%) are divorcee while the remaining 22(8.3%) are separated couples without any valid decision. Being that as it may, the respondents who are married got the lion share in the entire distributions.

Table 8: Distribution of Respondents by Educational Background

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Primary School Certificate	36	13.6	13.6	13.6
O/Level	47	17.8	17.8	31.4
OND/NCE	39	14.8	14.8	46.2
HND/Degrees	110	41.7	41.7	87.9
M.Sc/PhD	32	12.1	12.1	100.0
Total	264	100.0	100.0	

Source: SPSS Version 23

The results in table 8 above shows that 36 (13.6%) of the respondents obtained primary school certificate, 47 (17.8%) possessed O/Level result, 110 (41.7%) bagged OND/NCE qualification, 110 (41.7%) acquired HND/Degree while the remaining 32 (12.1%) got M.Sc/Ph.D degrees. Meanwhile, the respondents who secured HND/ Degree obtained the highest scores in the entire distribution.

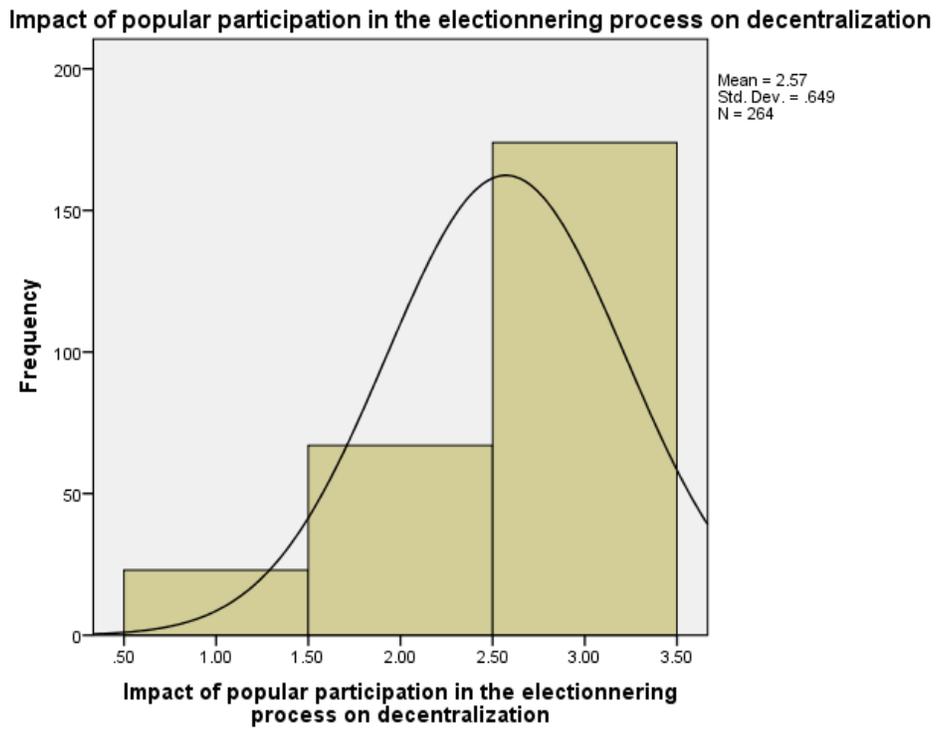
Table 9: Impact of popular participation in the Electioneering process on decentralization

	Frequency	Percent	Valid Percent	Cumulative Percent	Mean	Std. Dev
Valid No idea	23	8.7	8.7	8.7	2.57	0.64
Insignificant	67	25.4	25.4	34.1		
Significant	174	65.9	65.9	100.0		
Total	264	100.0	100.0			

Source: SPSS Version 23

The results in table 9 and figure 1 show 174 (65.9%) of the respondents subscribed to the view that the impact of popular participation in the electioneering process on decentralization is significant, 67 (25.4%) were of the view that it is insignificant while the remaining 23 (8.7%) were on the fence. The mean result of 2.57 and Standard Deviation of 0.64 indicate that on the whole, the majority of the respondents supported the view that the impact of popular participation in the electioneering process on the extent of decentralization is high.

Figure 1: Histogram showing respondents opinion on impact of popular participation in the electioneering process on decentralization



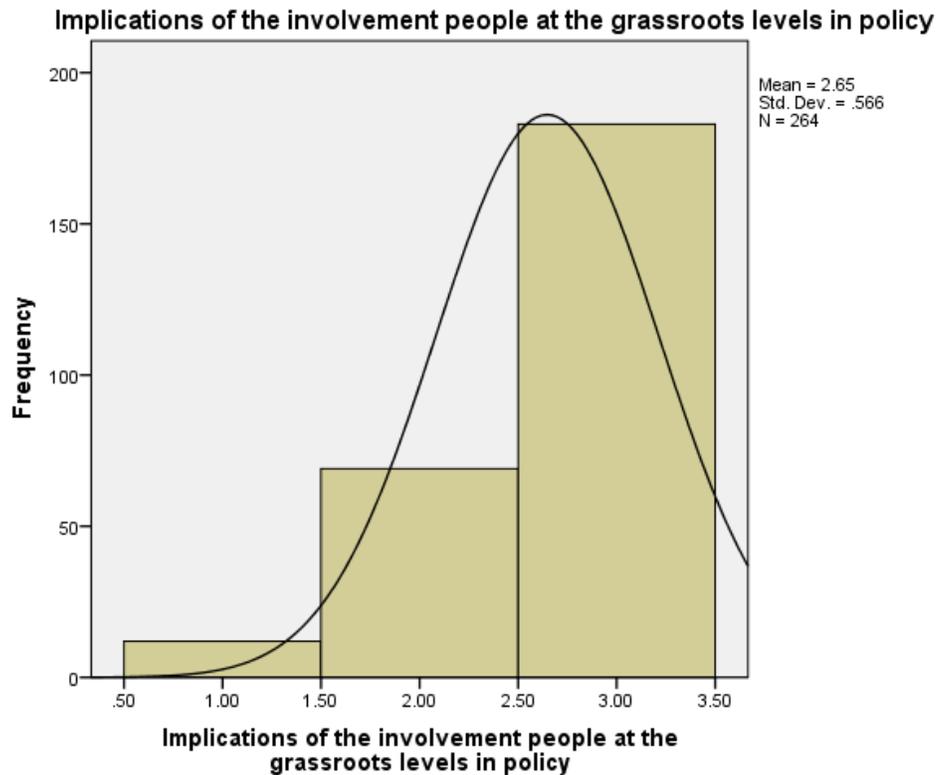
Source: SPSS Version 23.

Table 10: Implications of the peoples’ involvement at the grassroots levels in policy formulation and implementation on decentralization

	Frequency	Percent	Valid Percent	Cumulative Percent	Mean	Std. Dev
Valid Low	12	4.5	4.5	4.5	2.64	0.56
Average	69	26.1	26.1	30.7		
High	183	69.3	69.3	100.0		
Total	264	100.0	100.0			

Source: SPSS Version 23

Figure 1: Histogram showing respondents' view on implications of the involvement



Source: SPSS Version 23

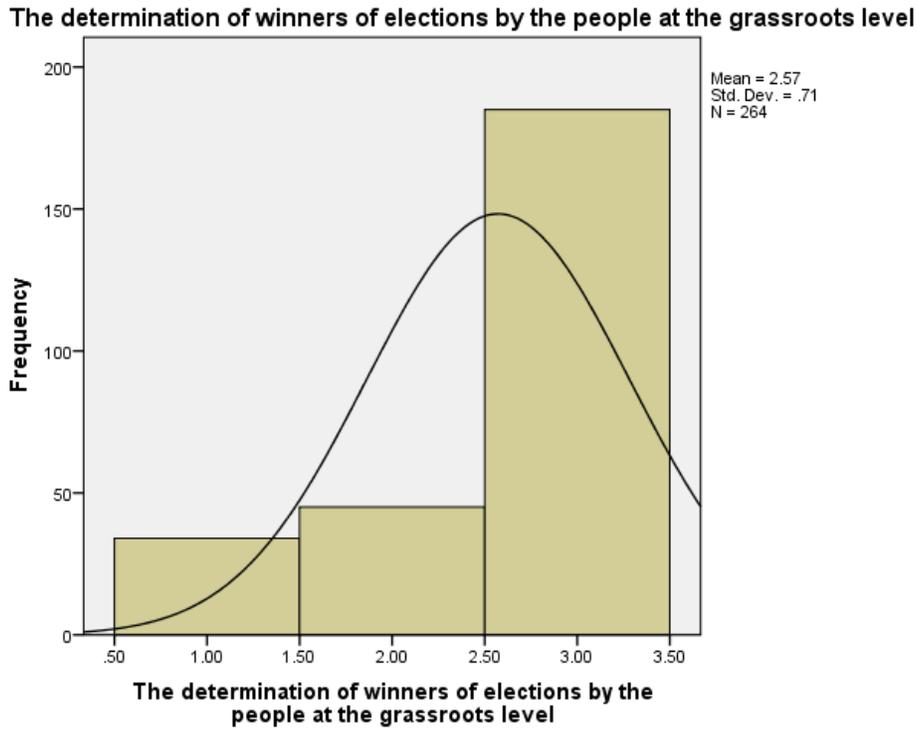
In table 10 and figure 2 above, the result obtained indicated that 183 (69.3%) of the respondents were of the opinion that the implication of the involvement of people at the grassroots level in policy formulation and implementation on decentralization is high, 69 (26.1%) considered it to be at average level while the remaining 12 (4.5%) believed it is low. The mean result shows 2.64 and Standard Deviation of 0.56 and these imply that involvement of people at the grassroots level in policy formulation and implementation on decentralization is high.

Table 11: The determination of winners of elections by the people at the grassroots level and the extent of decentralization

	Frequency	Percent	Valid Percent	Cumulative Percent	Mean	Std. Dev
Valid No Idea	34	12.9	12.9	12.9	2.57	0.71
Low Extent	45	17.0	17.0	29.9		
Large Extent	185	70.1	70.1	100.0		
Total	264	100.0	100.0			

Source: SPSS Version 23

Figure 3: Histogram showing respondents' opinion on the determination of winners of elections by the people at the grassroots level and the extent of decentralization



Source: SPSS Version 23

In table 11 and figure 3 above show that 185 (70.1%) of the respondents were of the opinion that the determination of winners of elections by the people at the grassroots levels and the extent of decentralization is to a large extent, 45 (17.0%) considered it to be a least extent while the remaining 34 (12.9%) were on the fence. The mean result of 2.57 and Standard Deviation of 0.71 indicates that the larger percentages of the respondents were of the opinion that the determination of winners of elections by the people at the grassroots levels and the extent of decentralization is to large extent.

Test of Hypotheses

Statement of hypotheses was tested using the Chi-Square and Pearson Correlation Co-efficient as statistical tools. This is necessary in attempts to test the strength of relationship existing between the dependent and independent variables.

Hypothesis One

There is no significant relationship between popular participation in the electioneering process at the grassroots level and the extent of decentralization.

Table 12: Chi-Square Tests

	Value	Df	Asymptotic Significance (2-sided)
Pearson Chi-Square	356.804 ^a	4	.000
Likelihood Ratio	314.856	4	.000
Linear-by-Linear Association	219.376	1	.000

N of Valid Cases	264		
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a. 2 cells (22.2%) have expected count less than 5. The minimum expected count is 2.96.

The Chi-Square Tests table above indicates that the Chi-Square calculated (356.804) is greater than the tabulated Chi-Square of (314.856). The null hypothesis is rejected since the 2 calculated is greater than the 2 table. Therefore, the alternate hypothesis is accepted. By implication, there is significant relationship between popular participation in the electioneering process at the grassroots level and the extent of decentralization.

Table 14: Symmetric Measures

		Value	Asymptotic Standardized Error ^a	Approximate T ^b	Approximate Significance
Interval by Interval	Pearson's R	.913	.018	36.298	.000c
Ordinal by Ordinal	Spearman Correlation	.919	.021	37.693	.000c
N of Valid Cases		264			

a. Not assuming the null hypothesis.

b. Using the asymptotic standard error assuming the null hypothesis.

c. Based on normal approximation.

Table 14 above displays symmetric measures which describe the strength of relationship between variables. The correlation values of 0.91 and 0.919 show that there is strong relationship between popular participation in the electioneering process at the grassroots level and the extent of decentralization.

Hypothesis Two

There is no significant relationship between the involvement of people at the grassroots level in policy formulation and implementation and the extent of decentralization.

Table 15: Chi-Square Tests

	Value	Df	Asymptotic Significance (2-sided)
Pearson Chi-Square	338.732 ^a	4	.000
Likelihood Ratio	308.776	4	.000
Linear-by-Linear Association	219.498	1	.000
N of Valid Cases	264		

a. 2 cells (22.2%) have expected count less than 5. The minimum expected count is 1.05.

Table 15 above shows the Chi-Square Tests result. According to the table, calculated chi-square is (338.732) is greater than the tabulated chi-square of (308.776). The null hypothesis is rejected since the 2 calculated is greater than the 2 table. Therefore, the alternate hypothesis is accepted. By implication, there is significant relationship between the involvement of people at the grassroots level in policy formulation and implementation and the extent of decentralization.

Table 16: Symmetric Measures

		Value	Asymptotic Standardized Error ^a	Approximate T ^b	Approximate Significance
Interval by Interval	Pearson's R	.913	.018	36.298	.000c
Ordinal by Ordinal	Spearman Correlation	.919	.021	37.693	.000c
N of Valid Cases		264			

Interval by Interval Ordinal by Ordinal	Pearson's R Spearman Correlation	.914 .931	.016 .019	36.359 41.173	.000 ^c .000 ^c
N of Valid Cases		264			

- a. Not assuming the null hypothesis.
- b. Using the asymptotic standard error assuming the null hypothesis.
- c. Based on normal approximation.

Table 16 above displays symmetric measures which describe the strength of relationship between variables. The correlation values of 0.914 and 0.931 show that there is strong relationship between peoples' involvement at the grassroots level in policy formulation and implementation and the extent of decentralization.

Hypothesis Three

There is no significant relationship between the determinant of winners of elections by the people at the grassroots level and the extent of decentralization.

Table 17: Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	356.804a	4	.000
Likelihood Ratio	314.856	4	.000
Linear-by-Linear Association	219.376	1	.000
N of Valid Cases		264	

- a. 2 cells (22.2%) have expected count less than 5. The minimum expected count is 2.96.

Table 17 shows the Chi-Square Tests result. According to the table, calculated chi-square is (356.804) is greater than the tabulated chi-square of (314.856). The null hypothesis is rejected since the calculated is greater than the χ^2 table. Therefore, the alternate hypothesis is accepted. By implication, there is significant relationship between the determinant of winners of elections by the people at the grassroots level and the extent of decentralization.

Table 18: Symmetric Measures

		Value	Asymptotic Standardized Error ^a	Approximate T ^b	Approximate Significance
Interval by Interval Ordinal by Ordinal	Pearson's R Spearman Correlation	.913 .919	.018 .021	36.298 37.693	.000 ^c .000 ^c
N of Valid Cases		264			

- a. Not assuming the null hypothesis.
- b. Using the asymptotic standard error assuming the null hypothesis.
- c. Based on normal approximation.

Table 18 above displays symmetric measures which describe the strength of relationship between variables. The correlation values of 0.913 and 0.919 show that there is strong relationship between significant relationship between the determinant of winners of elections by the people at the grassroots level and the extent of decentralization.

Discussion of Findings

The findings of this paper revealed that popular participation in the electioneering process at the grassroots level to a large extent determines the level of decentralization. The above result is in congruent with the view of Litvack and Seddon (1999) who stated that “the potential of decentralization for higher popular participation through local elections and opportunities for people to get involved in public decision-making has played a key role in the drive towards decentralization’. By implication, the extent participation in the electoral process at the grassroots level would go a long way in determining whether decentralization will take the form of devolution or de-concentration.

Second, the findings demonstrated that the involvement of people at the grassroots level in policy formulation and implementation to a large extent determines the level of decentralization. The implication of this is that decentralization tends to exist in form of devolution when the people at the grassroots level are given the opportunity to be fully involved in policy formulation and implementation. On the other hand, decentralization tends to take the form of de-concentration when the people at the grassroots level are not offered the opportunity to participate in decision making process. The above findings corroborated that view of Steiner (2005) who stated that “by enhancing the voice of citizens in decision making processes, decentralization can Facilitate equitable distribution of services especially to marginalized and poor communities”.

Lastly, the findings of the paper exhibited that the determinant of winners of elections by the people at the grassroots level plays key role in the extent of decentralization. By implication, the extent of decentralization tends to be higher when the people at the grassroots level are offered the opportunity to elect their leaders through free and fair elections. On the other hand, the extent of decentralization tends to be low when the winners of elections are determined by godfathers through electoral malpractices, vote buying, manipulation of results, snatching of ballot boxes, violence and stolen mandate. In the in opinion of Kauzya (2007), vote is the means through which citizens select their representatives at the local level. Decentralization facilitates this by putting in place structures that allow citizens to exercise their voting power with limited ‘hindrance or interference from the central government’

Summary of Findings

- i. Popular participation in the electioneering process at the grassroots level to a large extent determine the level of decentralization
2. The involvement of people at the grassroots level in policy formulation and implementation to a large extent determines the level of decentralization
3. The determinant of winners of elections by the people at the grassroots level plays key role in the extent of decentralization.

Conclusion

Ideally, electoral governance ought to promote democratic principles which by extension enhance decentralization. The citizens of the country have the fundamental human right of choosing their political leaders and adopt system of government that suit their cultural values, norms or traditions as a people. Electoral governance and

Decentralization has been practiced in Nigeria but it has been greeted with numerous challenges. Some of these challenges include the following; electoral violence/ fraud; faulty constitutional power sharing among tiers of government; too much concentration of powers/functions on the federal government; bad political leadership amongst others.

Recommendations

A critical analysis of the findings of this study reveals that the following recommendations are considered fundamental towards strengthening the impact of electoral governance on decentralization:

- i. Popular participation in elections at the grassroots level should be encouraged through political education, maintenance of internal party democracy, provision of level playing field for contestants, non-interference of government in the electoral process, making and commitment of electoral umpire to free and fair elections. By so doing, decentralization will take the form of devolution.
2. The people at the grassroots level should be involved in policy formulation and implementation through town hall meetings, capacity building, skill acquisition, issue based campaign, joint determination of party manifestoes and mass participation in the electoral process. This will go a long way in widening the scope of decentralization at the grassroots level.
3. Winners in any elections should emerge through the conduct of free and fair elections. This will go a long way in ensuring that the will of the people at the grassroots level prevails in the choice of political leaders. The level of decentralization will be enhanced when the people at the grassroots level are offered the opportunity to hold their leaders accountable

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APPENDIX I

Table 1: Political Decentralization in Nigeria

Tier of Government	Legislative Lists
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Only Federal	Defence; Shipping; Federal trunk roads; Aviation; Railways; Posts, Telegraphs and telephones; Police and other security agencies; Regulation of labor; interstate commerce; telecommunication; Mines and minerals; Social Security; Insurance; National statistical System; National parks; Guidelines for minimum education standards at all levels; minting of currency; Water resources affecting more than one state
Federal-State (Shared)	Antiquities and monuments; Electricity; Industrial; commercial and agricultural development; Scientific and technological research; Statistics and surveys; University; technological and post-primary education; Health and social welfare
State-Local (Shared)	Primary, adult and vocational education; Health services; Development of agriculture and non-mineral natural resources
Local	Economic planning and development; Cemeteries; burial grounds; Homes for the destitute and infirm; Markets; Sewage and refuse disposal; Roads, streets; street lighting; drains; other public facilities

Source: Adapted from the 1999 Constitution of Nigeria.

APPENDIX II

Adapted Correlation Table

Less than 0.2	No Association
0.2 – 0.6	Weak
0.6 – 0.8	Moderate
0.8 – 1	Strong



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INVESTIGATION OF THE EXTENT OF COMPLIANCE WITH LAGOS STATE PUBLIC PROCUREMENT LAW: A SURVEY IN THE SELECTED MINISTRIES AND AGENCY

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Adewunmi Adelore ADEWOYIN
Department of Public Administration
Obafemi Awolowo University,
loresanguine@hotmail.com

Olubisi Dorcas ADEDIRAN
Department of Computer Science
The Polytechnic Ibadan
dorcasolubisi@gmail.com

Abstract: *The study investigated the extent of compliance with the Lagos state public procurement law in the study area. These were with a view to assessing the extent to which the implementation of public procurement policy has enhanced openness and efficiency among the Ministries, Departments, and Agencies in Lagos State. The study utilized primary and secondary sources of data. Primary data were collected through administration of questionnaire and conduct of in-depth interview. The study population of 1,398 comprised the staff and stakeholders from agency, ministries, construction companies, and civil societies. The distribution was as follows: Lagos State Public Procurement Agency (100) ministries of Works and Infrastructure (240); Justice (481); Finance (89); and Housing (110). In addition, Hitech Construction Company (70); Craneburg Construction Company (69); Planets Projects (64); and Messers (FIDC) 58. Furthermore, BudgIT (31); Socio-Economic Rights and Accountability Projects (32); Ymonitor (29); and Coalition Against Corrupt Leaders (25). The study adopted a proportionate random sampling technique of 15%. In the long run, sample of 210 respondents were selected for purpose of questionnaire administration. Also, two senior procurement officers in the Ministries of Works and Infrastructure, and Housing, with one senior officer of Lagos State Public Procurement Agency were chosen for in-depth interview. Data collected were analysed using percentage, mean, regression, and content analysis. The study revealed that the implementation of public procurement law enhanced compliance among the procuring entities in the area of professionalism (68.3%), competitiveness (59%), and adjudicatory mechanism (59.9%). The results also showed a statistically significant relationship in the extent of compliance with the public procurement law variant (openness and efficiency) and the selected procuring entities with the result of P-value 0.000, and the chosen α -value of 5%, $0.000 < 0.05$ respectively. The regression indicated multi linear relationship among the procuring entities and variables of probity, openness, efficiency, $N=2.413-0.044P+0.173R+0.212E$. The study concluded that there was low compliance with the Public Procurement Law in the Implementation of Public Procurement Policy in Lagos State.*

Keywords: *compliance, procurement, policy, law, openness, efficiency*

Introduction

The need for government across the globe to sanitize institutional purchases and supplies, which gulped large chunk of establishments appropriated budget, and coupled with the attendant effects on the various activities of procurement expenditure necessitated the adoption of public procurement policy. Government at various tiers deemed it

necessary to address the trend through the various rules, regulations, treaties, and enactment of Law in order to ensure probity, effectiveness, value for money, transparency, and accountability so as to address sharp practices in public procurement and disposal of assets. However, despite these regulations and laws; public procurement still continues to witness hitches especially in most third world countries, where public procurement is characterised with shoddy practices. Similarly, public investments in physical infrastructure, institutional and human capacities, which ought to help in laying foundations for national development has been in a state of despair. Similarly, in the Western world such as the United States of America and the United Kingdom, public procurement was guided with the principle of utilitarianism as posited by Mills (1871), which follows the mathematics of utility as thus: the greatest good for the greatest number of the people. Public procurement must be for the greatest good of the citizenry, or perhaps, the taxpayers which is what good governance entails. In addition, citizens' active participation in the contract award and implementation was lacking in Nigeria as procurement was ridden with sharp practices chief among them are the contract inflated cost, non-budgetary spending, lack of openness, accountability, and transparency (World Bank, 2000).

Public procurement at different tiers of government faces the problems of shoddy implementation, lack of competitive bidding among others. The reasons for this is not far-fetched as procurement in Nigeria is characterized by corruption, lack of value for money, inefficiency among others as a result of non-enactment of procurement Act, Law, or Bye-Law which ought to strengthen the budgetary allocation of various ministries, departments, and agencies (World Bank, 2000). Instead of statute, procurement was guided by financial regulations, which is a tool of the finance ministry in the award of a contract, and it was shielded in secrecy. The narratives changed with the advent of the fourth republic in 1999 and coupled with the desire of the federal government to sanitize the procurement process and the recommendation of the World Bank that was submitted through the Country Procurement Assessment Report (CPAR). The assessment report prompted the federal government to enact public procurement Law in order to check the abuse of contract processes, inflated contract cost, and ensure value for money so as to end the endemic corruption that characterized the procurement process and which has become a conduit pipe for siphoning off the public money (World Bank, 2000). The report prompted the federal government to set up an office called Budget Monitoring and Price Intelligence Unit (BMPIU) also known as Due Process in 2001, which helps in regularising public procurement process and assists in promoting transparency and accountability to the process of contract award for the first time in Nigeria.

The BMPIU was to make sure that due process is followed in the award of contract and there should be value for money. This gradually replaced the old method of issuing circular for procurement. Subsequently, the Bureau of Public Procurement (BPP) was set up because of the enactment of the Public Procurement Act (PPA) 2007, which finally gave constitutional provisions for procurement process in the country. Since the country operates a federal constitution, the Public Procurement Act of the National Assembly is not binding on the states. Hence, each of the states enacts Law that guides the states procurement process in form of domestication of the Public Procurement Act through the passage of Public Procurement Law by State Houses of Assembly. Therefore, the enactment and subsequent assent by the Ex-Governor, Babatunde Raji Fashola of Lagos

State, which brought the Lagos State Public Procurement Law 2011 into existence. The law came with the establishment of the agency called Lagos State Public Procurement Agency (LSPPA), which replaced the State Tender Board for proper implementation of the Law. Section 1 of the procurement Law created the Agency, while section 2 created the Lagos State Public Procurement Agency Governing Board (LSPPAGB), which plays a supervisory role over the Agency.

The drive to address the sharp practice in the public procurement as a result of the lack of public procurement law with clearly defined roles which the state tender board performs in the award of the contract and the dual functions of the commissioner for establishment, training, and pension, which also chairs the state tender board in the award of a contract, and this is often done in a joint session with the State Executive Council where contracts are awarded to the preferred contractor (Press release Governor's Office 2012). Previously, the public procurement in the State was guided by Section 121 of the 1999 constitution as amended that stated the procedures for budget appropriation and various regulations. Section 121 makes provision for budget preparation, appropriation, and spending. However, the section was silent on the payment of mobilization fee, and this was performed in line with the whims and caprices of the State Executive Council who approved contract with little or no objection from the State Tender Board, which was chaired by a member of the State Executive Council. This subsequently gave room for various sharp practices. This lacuna was corrected with the establishment of Lagos State Public Procurement Agency (LSPPA) after the passage and subsequent assent to the Lagos State Public Procurement Law 2011. This Law clearly stated the objectives, functions, and powers of LSPPA in the following sections: 8, 9, and 10 respectively. The Law scrapped the state tenders board and replaced with LSPPA, with separate Head; General Manager, and to be assisted by directors so as to ensure effectiveness, efficiency, value for money, transparency, openness, and accountability inter alia.

The Law gave (assigned) for the agency functions and objectives to be carried out so as to ensure strict compliance by the procuring entities, suppliers, contractors, or consulting firms. The whole essence of the enactment of the public procurement Law is to bring transparency, accountability, and fairness into the business of governance through the acquisition of goods, services, or works for the public. The law made the procurement processes a constitutional matter that must not be breached, and if it is breached, there are adequate sanctions for the erring procuring or disposing entities, suppliers, contractors, and consulting firm to be punished or sanctioned. The enactment of the law, especially in most third world countries became indispensable as corruption takes precedence over and above good governance, and where cronyism and favouritism are considered in the award of the contract. This showed in the rate of flagrant violation of procurement laws, the high cost of procurement of goods, works, or services, cheaper disposal of government goods, and non-disclosure of the actual costs of projects among others.

Literature Review

Public Procurement

Countries in the world engage in public procurement in order to engender growth and development. Public procurement enhances governance as it shows the needs for having value for public funds spent by people's representative, which is the government. Walker and Brammer (2009) posit public procurement as it relates to the taxpayer's money,

and the manner in which public entities use the taxpayer's money in acquiring goods, works, or services. For Walker and Brammer (2009), the efficient and effective use of taxpayers' money in order to acquire public goods, lie at the cores of public procurement. Public procurement should be carried out in accordance with the rules and regulations so that taxpayers' money would be judiciously spent and accounted for. World Bank (2003) posits that public procurement is related to the use of public funds by the government and its various ministries, departments, and agencies (MDAs). Public procurement is undertaking on behalf of citizens in order to better their lives via the acquisition of the right quality and right quantity of goods, services, or public works at the best price, from the best sources, and with best procedures in accordance with the grundnorm. The World Bank's definition of public procurement regards the ground norms as key in the public procurement process which must not be subverted so as to avoid unbudgeted spending as against the appropriated funds in the process of acquiring goods, works, or services.

Public Policy

Public policy seeks to achieve the desired goals, which is in the best interest of all members of a state or country. Public policy is specific and target driven (Torjman, 2005). Public policy, therefore, is specific on the way and manner in which government performs its responsibilities which are in form of supplies, works, or services, which are expected to be carried out effectively, efficiently, and competently so as to get value for money without compromising the laid down rules and regulations. Dye (1972) argues that public policy is whatever government chooses to do or not to do. This definition is a clear departure from Torjman's definition. In addition, for Dye government action or inaction could be referred to as public policy while Torjman sees public policy as the action of government so as to influence or make things happen. It is, therefore, concluded that public policy is an indispensable act of government, which it is adopted in order to improve upon the standard of living of the citizens, which makes governance felt across the board rather than action or inaction as posited by Dye.

Theoretical Framework

New Public Management (NPM) theory was the swivel in which the study anchored on. The choice of NPM theory was because of the involvement of non-state actors in the implementation of public policies as advocated by Hood (1996) through privatization, the adoption of separation of policy from the delivery agencies so as to ensure that efficiency and effectiveness are enshrined, with public-private partnership evolvement. Also, the theory sees the need for shift from bureaucratic administration of public service to the professional business-like approach in the same way with private investors, individuals, and corporate organisation that carry out the implementation of public procurement policies in order to ensure efficiency, effectiveness, probity, accountability, and openness which are hallmarks of public procurement law through indirect procurement. The theory's relevance is affirmed in the cost of governance in line with a business-like approach, which prioritizes the need for value for money, contracting out several services, and reduction of the stiff hierarchical bureaucracy of public service, in the same manner, the private sector grasps the satisfaction of customers in order to remain in business. The findings of the study showed that business-like approach for public procurement among the procuring entities had not been carried out in the professional business-like manner has advocated by

NPM theorists in the contract award, with emphasis on quality and efficiency of public service in order to ensure the core of citizens in the public procurement activities and as well as how taxpayers money were expended. Similarly, the theory argues on performance through audit, benchmarks, and evaluations which grasps the need to get value for money expended on the part of either the government or the taxpayers, which is most attainable where competitiveness is engendered with the importance of making improvement a continuous strides. The business-like approach management as canvassed by NPM theorists would have been engendered are they being the Lagos State Public Procurement Governing Board (LSPPGB) has been constituted, this would have enhanced the procuring entities procurement through the Lagos State Public Procurement Agency. The changes become imperative as it affects the mode of operation by the government in the public sector, which means there is an urgent need to shift from bureaucratic administration to business-like professional management. Contracts award processes were being undertaken by government representatives, civil society organisation, and professional in order to endear competitiveness, transparency, and accountability. The NPM theory also favours the disaggregation and decentralization of contracts award processes into different MDAs tender board, which is in line with the constitutional provision of Lagos State Public Procurement Law this in according to the reorganization of the procurement process in line with private sector method of acquisition and award of contracts. The approach is adopted so as to address accountability, waste, and inefficiency that characterized centralized procurement in the public sector. Private investors through competitive bidding which is the hallmark of public procurement policy better handle these contracts.

Methodology

This section presents the methodology that was adopted in the study. It further discussed the methods and techniques that were used in order to achieve the paper's objective, with data analysis techniques to test hypothesis. The study was carried out in Lagos state, southwestern Nigeria. The State was created in 1967, formerly comprised of the two parts, the Lagos colony, and part of Western Region. It was administered with the creation of 20 Local Government Area, and with the advent of fourth republic in 1999; the State government created 37 Local Council Development Area. In order to ensure that good governance are brought closer to the grass roots, as the State represents a commercial hub of the country and with its attendant effects on the infrastructures in the state.

The target study population of this study was one thousand four hundred and one (1401), and this comprised of 1398 respondents and 3 interviewees. This consisted of the top management level and middle level from GL 07 to GL 17 as the majority of the staff in these levels determined the procurement plans in each of the ministries that formed the budgetary allocation for the ministries and agencies of government and which formed procurement for that financial year. The population comprised Housing 110, Finance 89, Works and Infrastructure 240, and Justice 481. The top and middle levels of management in the ministries and agency were considered since they are actively involved in the procurement process that is, award and implementation. Also, 100 staff from LSPPA in the GL 07 to GL 17; the construction companies with their senior employees which formed the respondents are Craneburg Construction Company 69, Planets Projects 64, Hitech Construction Company 70 and the Messers First Investment Property Company 58. Civil

Society Organisations; Coalition against Corrupt Leader 25, Socio-Economic Rights and Accountability 32, BudgIT 31 and Ymonitor 29. The reasons for the selection of these construction companies were in the number of projects they had carried out in the state in the past six years for the two administrations under review and the involvement of new ones by the present administration.

Data Analysis And Interpretation

Testing of Hypothesis

This section analysed and interpreted the hypothesis formulated for this study. A regression analysis was used as the statistical tools for testing the hypothesis. The hypothesis stated that there is no significant relationship between compliance with Lagos State Public Procurement Law in the variant (probity, openness, and efficiency) and procuring entities. To test the above-stated hypothesis, data gathered from respondents on the extent of compliance with public procurement law in the variant (probity, openness, and efficiency) and procuring entities were standardised into regression analysis and was subsequently run on SPSS.

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	2.413	.336		7.178	.000
The public procurement law has brought probity in the procurement process	-.044	.067	-.053	-.649	.517
The ministries compliance with openness in the procurement process has improved public trust	.173	.080	.164	2.163	.032
Procuring entities compliance with procurement law has enhanced efficiency in the contract execution	.212	.076	.209	2.799	.006

a. Dependent Variable: The performance function of the procuring entities complied with procurement law
 Source: Fieldwork Analysis, from SPSS, 2019

Interpretation

The regression coefficient table 4.3.1 gives a p-value of 0.000 which is less than 0.05 level of significance, this implies that the model is fit for use as multiple linear regression. The Table 4.3.1 gives the model as $N=2.413-0.044P+0.173O+0.212E$ where N is procuring entities and P, O, and E are probity, openness, and efficiency respectively. The model of the study identifies the strength of the effect of the independent variables of probity, openness, and efficiency on the dependent variable procuring entities. Whereas, the probity figure shows a negative relation with the procuring entities, this implies that an increase in the level of probity process leads to decrease in the procuring entities performance compliance with the implementation of public procurement law unlike the

openness and efficiency which have positive effect on the procuring entities performance compliance with the public procurement law. There is a positive relation in openness and efficiency with the performance function of the procuring entities in compliance with the implementation of public procurement law. That is, an increase in the level of openness and efficiency will lead to an increase in the performance function of the procuring entities compliance with implementation of public procurement policy respectively. The last column depicts the significance of each coefficient (the coefficient is significant if p-value is less than 0.05). From the model both openness and efficiency are statistically significant since the level of significance is (0.05), and p-value for openness is (0.032) and efficiency is (0.006) respectively. Therefore, the model is now $N=2.413+0.173O + 0.212E$ in accordance with the statistical significance of the variant tested.

The column of the standardised coefficient gives the relative importance of each variable to the dependent variable. The importance is ranked base on the absolute value of its standardised coefficient, in this case the variables in their order of importance is efficiency, openness, and then probity. It is therefore apposite to infer that the importance of efficiency, openness, and probity among various variable of public procurement cannot be over emphasized in the level of compliance with the public procurement law in the various procuring entities of government. Conclusively, there is statistical significant relationship between compliance with Lagos State Public Procurement Law variant (openness and efficiency) and procuring entities.

Extent of Compliance with the Implementation of Lagos State Public Procurement Law among the Procuring Entities

This part investigated the extent of compliance with the implementation of Lagos State Public Procurement Law among the procuring entities. In order to achieve this, items in the research instrument were designed to gather perception of the respondents on the extent of compliance with the policy. The measurement scale adopted were very large extent (5), large extent (4), undecided (3), fair extent (2), and less extent (1). The responses were rated so as to infer the perception of the majority of the respondents regarding the extent of compliance to the implementation of the Law with very large extent and large extent were assigned significant while less extent and fair extent were assigned insignificant. The decision rule is that any responses which are more than 50% are either significant or else insignificant.

The result of the survey showed that compliance with the implementation of the procurement law has not engendered value for money with an insignificant level of compliance extent. This position was buttressed by 58% of the respondents and with a mean value of less than 3 ($\bar{x}= 2.49, \sigma =1.57$). Another finding also showed the extent of compliance with probity in the implementation of the procurement law was significant with 56.4% of the respondents. This implies that probity in the implementation of the procurement law has brought about the needed appreciable level of confidence in the contract processes. This was further buttressed by ($\bar{x} = 3.01, \sigma =1.60$).

Another variable tested was the level openness in the procurement process. The survey sought to know the extent of compliance among the ministries and improvement it had brought to public trust as it relates to contract. The result showed that a significant level of compliance with openness has been achieved with 54.4% of the respondents that

agreed to the claim. The distribution affirmed this ($\bar{x}= 3.30, \sigma =1.25$) with the inference that openness has had a greater impact in the implementation of the procurement law through the competitive bidding relatively adopted by the procuring entities. The result of the survey also revealed that procurement law has enhanced efficiency in the contract being executed. 71.2% of the respondents agreed with the assertion, with the extent level of being significant. Therefore, the extent of compliance with the implementation of the procurement law has significantly enhanced efficiency in the award and implementation of contract in the state. Also, the distribution result of ($\bar{x} = 3.61, \sigma =1.30$) acknowledged this claim.

The performance function of the procuring entities complied with procurement law was verified here. It was shown from the survey result that their compliance with the procurement law was significant with the respondents level of agreement at a 69.8%. The result was as well asserted by the distribution of ($\bar{x} = 3.62, \sigma =1.44$). In conclusion, it now suffices to infer that the procuring entities extent of compliance with the implementation of the procurement law has been huge and significant in the state. The sixth assertion was to determine if the procurement law has ensured cost-effectiveness. The result of the survey proved contrary as 55.9% of the responses showed an insignificant level of compliance with the claim. This was further confirmed by the distribution of ($\bar{x}= 2.78, \sigma =1.51$). This result showed that compliance with cost-effectiveness in the contract implementation has not been adequately adhered to.

The respondents rated the extent of compliance with professionalism in the implementation of the procurement law as significant with 68.3% most effective responses. This implies that the state of professionalism in the implementation of the procurement law has considerably and significantly been impressive. This was further supported by the mean value of 3.46 and a standard deviation of 1.36 which avowed the views of the respondents.

The responses generated as it regards to the competitiveness in the award of contract showed that extent of compliance level with competitiveness in the implementation of the procurement law among the ministries was significant with 58.5% of the respondents confirmed this assertion, with the distribution of ($\bar{x}= 3.34, \sigma =1.58$) that also affirmed the claim. 55% of the respondents rated the appropriated budget and actual release of a fund as significant in the extent of compliance with the implementation of the procurement law. This implies that the significant level of compliance with the procurement law among the ministries has been attributed to the accessibility of funds. This was further confirmed by the ($\bar{x} = 3.28, \sigma =1.60$) which subsequently avowed the respondents' views.

The extent of compliance with the establishment of adjudicatory mechanism has been insignificant with 59.9% of the respondents which affirmed this claim as it concerns different legal issues and cases in the contract implementation in the state. This was also confirmed by distribution with a mean value of 2.61 and a standard deviation of 1.31. The conclusion from the above therefore was that the adjudicatory mechanism of different ministries in conjunction with the Ministry of Justice has been insignificant as it concerns the implementation of the procurement law in the state.

Table 2 Extent of Compliance with the Implementation of Lagos State Public Procurement Law among the Procuring Entities (N=202)

Assertions	VLE f (%)	LE f (%)	UD f (%)	FE f (%)	LE f (%)	\bar{x}	σ
Compliance with the procurement law engendered value for money	28 (13.9)	48 (23.8)	9 (4.5)	27 (13.4)	90 (44.6)	2.49	1.57
Public procurement law brought probity in the procurement process	38 (18.8)	76 (37.6)	7 (3.5)	13 (6.4)	68 (33.7)	3.01	1.60
Ministries compliance with openness in procurement improved public trust	36 (17.8)	78 (38.6)	10 (5.0)	67 (33.2)	11 (5.4)	3.30	1.25
Compliance with procurement law enhanced efficiency in contract execution	53 (26.2)	91 (45.0)	5 (2.5)	33 (16.3)	20 (9.9)	3.61	1.30
The procuring entities complied with public procurement law	59 (29.2)	82 (40.6)	3 (1.5)	41 (20.3)	39 (19.3)	3.62	1.41
Procurement law compliance ensured cost-effectiveness in contract process	38 (18.8)	44 (21.8)	7 (3.5)	61 (30.2)	52 (25.7)	2.78	1.51
Compliance with the procurement law stimulated professionalism in contract process	43 (21.3)	95 (47.0)	4 (2.0)	31 (15.3)	29 (14.4)	3.46	1.36
Compliance with procurement law promoted fairness	69 (34.2)	49 (24.3)	4 (2.0)	41 (20.3)	39 (19.3)	3.34	1.58
Appropriated budget and actual release of fund enhanced compliance	70 (34.7)	41 (20.3)	8 (4.0)	41 (20.3)	42 (20.8)	3.28	1.60
The agency complied with the procurement law in establishing adjudicatory mechanism	14 (6.9)	61 (30.2)	6 (3.0)	75 (37.1)	46 (22.8)	2.61	1.31

Source: Fieldwork Survey, 2018

VLE (very large extent), LE (large extent), UD (undecided), FE (fair extent), LE (less extent) \bar{x} (Mean), and σ (standard deviation) f=frequency, %=percentage

Discussion of Findings

The paper interrogated the extent of compliance with public procurement law among the procuring entities. The study finding showed that there is a significant relationship between the compliance with procurement law of variant (probity, openness, and efficiency) and procuring entities with result of p-value less than 5%; ($0.000 < 0.05$).

From the study, it was revealed that the public procurement law variant that has desired relationship with procuring entities are openness and efficiency. It was concluded from the result that an increase in openness and efficiency would lead to increase in the of compliance level by the procuring entities which enhances judicious spending of budget appropriated and minimum expenditure on frivolities is enhanced so as to achieve the policy's target of accountability. This affirmed the work of (Eyaa & Oluko, 2011) on the

need to ensure compliance with efficiency in the public procurement policy among the procuring entities. It suffices to say that the importance of complying with openness and efficiency in the procurement process by the procuring entities is the heart and soul of the government procurement process. That is the procuring entities compliance with minimum expenditure on materials, time, cost, among others would ensure accountability and transparency. This is in line with the view of Amayi and Ngugi 2013 who both postulated that a government gets more on its commitment if efficiency is complied with strictly in the course of procurement process. This was further supported by the study with 71.2% respondents of the quantitative data verified the fact that efficiency drives the ministries' activities. This is in pact with the finding of Agbesi (2009) where he recommended that efficiency should be entrenched and sustained in the public procurement process across ministries, department, and agencies.

The second variant, openness was also impactful as it subsequently had relationship with the procuring entities as revealed from the model. Also, an increase in the extent of compliance with public procurement law with the variant openness would have a direct relationship in the activities of procuring entities. The quantitative finding affirmed this result with 56.4% of the respondents who agreed strongly. The summary of the finding, therefore, affirmed the need to embrace openness closely in the procurement process of the procuring entities so as get value for money expended and to improve people's confidence in the procurement process. This result also got literature support from the work of Dakwanya and Murispshaka (2017) where both discussed extensively on the need to ensure compliance with openness in the public procurement policy.

Conclusion remarks

The study further showed that the policy objective of efficiency, probity, and openness among the various procuring entities as to a large extent being achieved, though with various challenges undermining the implementation of public procurement policy, which needs prompt consideration. Policy should be formulated which would mandate audit of account for money expended on all the capital expenditure contracts so as to strengthen and empower the agency's activities on how funds were appropriated, released, and expended as provided for in the appropriated budget. Hence, budget for the previous year should be audited and published for each of the ministries, departments, and agencies before the passage of the current year's appropriation. This would further ensure stricter compliance with fiscal discipline as envisaged in section 19 of Lagos State Public Procurement Law 2011 (LSPPL) as well as the provisions of the Fiscal Responsibility Act 2007 respectively

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FEDERAL CHARACTER AND THE ETHICS OF ETHNIC BALANCING IN NIGERIAN UNIVERISTIES

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Olalekan Eyitayo AJIBADE

Department of Public Administration,
Federal Polytechnic, Ilaro
olalekan.ajibade@federalpolyilaro.edu.ng

Adewale Bashir ADEBAYO

Registry Division, Federal Polytechnic, Ilaro
adewale.adebayo@federalpolyilaro.edu.ng

Abstract: *The discourse of the paper focuses on Federal Character and the Ethics of Ethnic Balancing in Nigeria using the Federal Polytechnic, Ilaro as a study. Among the problems identified facing Nigeria is the high rate of marginalisation and inequality within tribes in Nigeria. The Federal Character was however established to manage this situation by ensuring adequate representation of all ethnic groups across all government establishments. Data for this study was derived from both primary and secondary sources. Respondents for the study were staff of the Federal Polytechnic, Ilaro. The study revealed that the federal character principle has not been able to address the obvious imbalances in the various segments of the nation owing to its method of application. Also, it was discovered that the preference given to the Northern regions in employment of staff has not improved the status of the Northern region, the reason is because the Northern elites probably have not put in their best to change the attitudinal disposition of their youths towards Western education. Hence, the paper in its recommendation, recommends that The principle should not be applied only when it is in the interest of a particular section of the country. Rather it should be applied in such a way that every section of the country will be carried along.*

Keywords: *Marginalisation, Ethnicity, Federal Character, Inequality*

Introduction

Nigeria a federation of many different nations is the most populous country in Africa with about 160 million people. The country is divided into 36 states and 748 local government areas. The religious, ethnic, and cultural diversities of the federating units no doubt make it a unique one. Otite (1990) in Mustapha (2007), identifies 374 ethnicities which are broadly divided into ethnic 'majorities' and ethnic 'minorities'. The majority ethnic groups are the Hausa-Fulani of the north, the Yoruba of the southwest, and the Igbos of the southeast. However, the relationship between these groups is characterized by fear and suspicion of domination of one state or ethnic group by another. Meanwhile, this suspicion and fear between groups is historical. However, it became pronounced when Sir Fredrick Lord Lugard began the process of subjecting ethnic groups with a history of mutual distrust and hatred together as one Nigeria. Remarkably, these ethnic groups are not of equal population and hence some tend to dominate others thus exploiting them. Also, political and economic imbalances exist among these various states or ethnic groups that make up Nigeria. These imbalances arose from the nature and character of the post colonial Nigerian state. In almost all the sectors, state, ethnic or regions, people feel marginalized.

These have brought about a choking socio-economic competition among the various ethnic groups which have resulted into ethno-regional conflict and tension that characterize Nigeria since 1960. The emergence of various militia groups in the Niger Delta, OPC in the South-West, MASSOB in the South East and of recent Boko Haram in the North, are all indications of the existence of rivalries between and among the various groups over the sharing of national cake. These ethnic, regional, and religious divides in the country have become so problematic with resultant patterns of inequalities. These inequalities are caused by a complex range of factors, including history, geography, cultural orientation, religious affiliation, natural resource endowments, current government policies, and past colonial policies. Akinola and Adesopo (2011) in Aderonke (2013) support this argument when they posit that, the problem of ethnic minority has been receiving attention of scholars and practitioners of governance and development. This is because ethnic minority is usually sidelined and ignored by the majority in decision making and resources distribution.

The consequence of such politics of exclusion has been agitation and demand for social inclusion, which at times results to violent actions. Society is a system of human cooperation, the question of how society can mainstream the minority groups in decision making on welfare matters, requires adequate policy consideration. Lack of adequate representation by the ethnic groups constitutes a great threat to national integration. In realization of some inherent cleavages of inequalities, the federal character principle was introduced. The effectiveness of this policy measure in fostering national integration as well as promoting national development in Nigeria has been one of the most controversial and problematic issues in any political, social and economic discourse. The problem is that despite the adoption of the federal character principles since 1979, achieving national integration has been very difficult. It was in view of correcting this abnormality that the Federal Character Commission was set up and inaugurated on July 2002 as an executive agency charged with the responsibility of implementing Federal Character provisions and to uphold its principles. The essence is to ensure that government decisions on citing industries, building roads, awarding scholarships, appointment of public office holders, admission, employment and revenue allocations etc reflect federal character. But the problem is that, there is still a high rate of lopsidedness in the above mention areas of government decisions. The high rate of social segregation inherent in the political and social reams of the country, ethnic and religion divides, agitations, and crises brought to the front burner the basis for the adoption of the federal character principle in Nigeria. The question is, why has the Federal character principle failed in bringing about the desired ethnic balancing in Nigeria? It is against this background that this paper examines federal character and the ethics of ethnic balancing in Nigeria using the Federal Polytechnic, Ilaro as a study.

Research questions were formed to provide answers to issues identified. The following are the questions;

- i. *How has the federal character principle impeded ethnic balancing in Nigeria using the Federal Polytechnic, Ilaro as a study?*
- ii. *How has the federal character principle promoted the growth of ethics of ethnic balancing in Nigeria a study of Federal Polytechnic, Ilaro?*
- iii. *What mechanism can be devised to promote the ethics of ethnic balancing in Nigeria a study of Federal Polytechnic, Ilaro?*

Research Hypothesis

- i. *Federal Character Principles has not significantly impeded the ethics of ethnic balancing in Nigeria using Federal Polytechnic, Ilaro as a study.*
- ii. *There are no possible mechanisms for the promotion of ethnic balancing in Nigeria a study of Federal Polytechnic, Ilaro.*

The Origin and Concept of Federal Character in Nigeria

The account of scholars like Afigbo (1989), Ekeh (1989), Gboyega (1989) and Uroh (2000) on the origin of federal character principle in Nigeria seem to be similar. Afigbo (1989) was however more specific, when he posits that “the term federal character is one of the inventions of the Constitutional Drafting Committee (CDC) inaugurated by the late General Murtala Mohamed on 18th October, 1975.” Other scholars merely traced the origin of federal character to the 1979 constitution of the Federal Republic of Nigeria. Afigbo (1989) corroborated the view, when he argues that “it was in the course of the debate on that section of the report of the sub-committee on the executive and the legislature which dealt with how to promote national loyalty in a multi-ethnic society that the phrase – federal character was coined.” The CDC (1977) conceptualized federal character as:

refers to the distinctive desire of the peoples of Nigeria to promote national unity, foster national loyalty and give every citizen of Nigeria a sense of belonging to the nation notwithstanding the diversities of ethnic origin, culture, language or religion which may exist and which it is their desire to nourish, harness to the environment of the Federal Republic of Nigeria.

The above definition of federal character by the CDC appears very inadequate and suffers on many counts. As documented by Afigbo (1989), federal character cannot be a desire. In addition “the desire to nourish” in the definition appear very ambiguous. What is the desire? If the desire is known, then what is the desire attempting to nourish? It seems logical to say that the CDC only tried to highlight some issues agitating the mind of Nigerians on how to make every segment of the society to be represented in the formulation and implementation of government policies known in Nigeria as “the National Question.” While canvassing for support of the adoption of the federal character principle in the 1979 Nigerian Constitution as strategy for peace, equity and stability, the CDC (1977) argued thus:

There had in the past been inter-ethnic rivalry to secure the domination of government by one ethnic group or combination of ethnic groups to the exclusion of others. It is therefore essential to have some provisions to ensure that the predominance of persons from a few states or from a few ethnic or other sectional groups is avoided in the composition of government or the appointment or election of persons to high offices in the state.

The phrase “desire of the peoples of Nigeria to promote national unity” in the earlier definition by the CDC (1977) is an indication that there is the need to reappraise the Nigerian federal system, in order to achieve enduring unity and sustainable development. In this regard, Afigbo (1989) submitted that “federal character of Nigeria must be taken to mean...the character of the Nigerian federation.” According to him, to understand and define the character of the Nigerian federation, the following factors must be noted: the innate or primordial characteristics of Nigeria’s federal society going back to the days of

yore; the quality and performance of the statesmanship which has sought to harness the inborn characteristics of Nigeria's federal society to a federal constitution; the degree of harmony existing between the primordial features and usages of Nigerian society; the structure and usages of the constitution; and the fact that the character of the Nigerian federation has been rather dynamic in response to the changing perceptions of statesmanship and other relevant forces.

The import of the above exposition is that the term federal character becomes lucid mainly in the light of history, because the problems which federal character encapsulates has existed in Nigeria in different forms and with varying degree since the amalgamation of the southern and northern protectorates in 1914. Ekeh (1989) however argues, "the problems that the doctrine of Nigerian federal character deals with are...partially federal in nature. The issues associated with federal character relate as much to unitary systems of government" As documented in the 1979 constitution, federal character purports to deal with distribution of privileges and benefits among the primordial components of any state organization. It is this preoccupation with sharing privileges and benefits that come with participation in government (and not in resource generation or "cake-baking") that is the major albatross of the implementation or application of the federal character principle in Nigeria. The need therefore to tinker with this practice with a view to ensuring administrative effectiveness for sustainable development in Nigeria cannot be overemphasized. Gboyega (1989) posits that the fundamental objectives and directive principles of state policy in the 1979 constitution explains federal character to mean that: The composition of the Federal Government or any of its agencies and the conduct of their affairs shall be carried out in such manner as to recognize the federal character of Nigeria and the need to promote national unity and to command national loyalty. Accordingly, the predominance in that government or its agencies of persons from a few ethnic or other sectional groups shall be avoided.

The above constitutional mandate was made with a view to enhance participation of people from different segments of the Nigerian society in the process of governance. However, Onyeoziri (2002) observes that "the implementation of the federal character has caused a lot of tension among the different federating units in the country." The reasons for the tension are as follow: the fuzziness that pervades its application in certain areas; the arbitrariness that seems to accompany its application even in areas where the application seems straight, especially during the military regimes; lack of political will from the leading elite to employ sanctions when the rules are breached; and lack of definite guideline in achieving balance between equity and efficiency in the application of the principle. These factors tend to highlight the liabilities to the judicious practice of the principle and poses serious encumbrances to the realization of sustainable development in Nigeria (Onyeoziri, 2002).

Concept of Ethnic Balancing

Constitutional-Integrative School anchored their thesis on the CDC document, 1979, 1989 and 1999 Constitutions (See Section 14 (3 to 4) of the 1999 Constitution. This view posits that these documents made provisions where no dominant entity should dominate of any state, ethnic group, religion or section in term of appointments recruitment and promotion. Discrimination school on the other hand argued that this policy is a design

anchored on ideology to perpetuate the dominance of the minority elites and their exploitation, exclusion and oppression of the majority As defined by the Constitution Drafting Committee (1976:22), the federal character principle is:

The distinctive desire of the people of Nigeria to promote national unity, foster national loyalty and give every citizen of Nigeria a sense of belonging to the nation (notwithstanding the diversities of the ethnic origin, which may exist and which it is their desire to nourish and harness to the enrichment of the Federal Republic of Nigeria.

The 1979 Constitution amended the 1976 definition by dropping the passage in brackets and substituted a reference to “a sense of belonging to the nation as expressed in Section 14 (3) and (4) of the 1979 Constitution” Section 14 (3) clearly spelt out the *modus operandi* of the Federal Character principles as follows:

The composition of the government of the Federation or any of its agencies be carried out in such manner as to reflect the Federal Character of Nigeria and the need to promote national unity and also to command loyalty thereby ensuring that there shall be no predominance of persons from a few ethnic or other sectional groups in that government or any of its agencies (The Constitution of the Federal Republic of Nigeria, 1979).

Bello (2012) adds that in pursuant to this provision, various other provisions were made in the Constitution to guarantee that the federal character principle is operative. This various provisions enjoins that the conduct of the affairs of central, state and local government bodies shall be carried out in such manner as to recognize the diversity of the people within its areas of authority and the need to promote a sense of belonging and loyalty among all peoples of the federation. The implication of this provision, the 1979, 1989 and 1999 Constitutions for federal bureaucracy in Nigeria is interesting. Following composition of the federal public services for instance and the conduct of its affairs must reflect the federal character of Nigeria. And this can only be seen to have been done if it does not contain a predominance of persons from a few states or from a few ethnic or other sectional groups. In practice this means that in the appointment, promotion and postings of the federal public servants, every state, ethnic group religions or any other sectional group should be represented. Thus, the criterion of membership of the federal bureaucracy is heavily skewed in favor of representation.

Representation of states, ethnic or any other sectional group especially religious groups in the composition of federal bureaucracy has, thus, superseded recruitment on the basis of knowledge and technical qualification as determined through a competitive examination. The situation is not different when it comes to promotion and postings. There are instances where capable, long serving and loyal federal civil servants have been denied promotion, precisely because the quota for their states in these posts has been filled. Under such situations, one's erstwhile subordinates usually become one's superiors overnight. Postings of federal civil servants in some cases have followed the federal character principle. Every state would like to see its citizens in all the organs or agencies of the federal bureaucracy. Sometimes, this representation is seen in absolute numbers not just between states in the federation but also between the North and South as collectivities. In fact, the issue of representation based on the federal character principle has unwittingly degenerated into verbal and sometimes acrimonious exchanges between the North and the South of the country (Okoli, 1990).

Paradoxically, the federal character principle has succeeded in institutionalizing North-South dichotomy rather than integrating it. To those from the Northern parts of the

country federal character is synonymous with quota system and means therefore a proportional absorption into federal institutions. To those from the Southern parts of the country, it means an attempt by the “North” to infiltrate into areas which they hitherto regarded as “theirs” by right (Suberu, 2001 & Dagaci, 2009). The federal character principle carried an inherent tug-of war between the claims of belonging to the nation and the claims of locally recognized diversity. It is the insisting on equal representation and individual rights that will rock the boat of national integration. If we are to accept the intent of the concept that it carries an unambiguous and unchallengeable mandate for national integration, then the present provision has to be completely reexamined. (Okoli, 1990). The Federal Government (1986) tried to resolve the problems created by the constitutional provision of federal character in the polity. The Report of the Political Bureau had argued thus, the constitutional definition of Nigerian citizenship should, as a matter of urgency, be studied with a view to removing the difficulties and anomaly arising from the interpretation of the relevant Sections of the 1979

Federal Character and Ethnic Balancing in Nigeria

The assertion that Nigeria is a creation of British colonialism is no longer irrefutable. Driven by economic considerations, the colonialists annulled the sovereignty and independence of the hitherto disparate autonomous socio-political entities which had inhabited Nigeria. The consequence of this resort is that the various nationalities inhabiting Nigeria have not been welded into a nation in which all of them would have a stake rather it provided a favorable environment for mutual suspicion and distrust among the disparate groups in Nigeria (Bello, 2012 in Adetiba, 2013). This situation no doubt impedes efforts at national integration in terms of building a united Nigeria out of the incongruent ethnic, geographic, social, economic and religious differences in the country. Equally, are the characters of Leaders in Nigeria? As most of them are Nationalists in the day and ethicists by night, as they only advocate Federalism in name, but actually worked towards the accrue of advantage to their ethnic units. Pye cited in Sharma (2012) had earlier observed that in societies or countries where there is high rate of social dissension, loyalty to family, language, religion, caste, or ethnic groups diminish individual commitment to national political system with great potential for political unrest and instability. Nigerians have come to agree that the greatest danger facing the development of this great country is not necessarily only corruption, but also lack of national identity and sense of belonging among majority of its citizens. Most Nigerians owe their loyalty to either the north or south or their ethnic nationalities. Politicians, who want to get undue advantage usually, fan the embers of North/South dichotomy or ethnic or religion differentiations to achieve their selfish aim or desire. Instead of achieving unity through balancing of interest, the country is further divided and polarized. The danger inherent is that consolidating nationalism disguise of federal character principle threatens the appropriateness of the federal system in Nigeria.

The federal character principle has been manipulated and channeled to serve the overall interest of the petty bourgeois ruling class. The members of this class formulate and operate the principle to achieve their selfish desires under the guise of the federal character principle. They get themselves entrenched in power and exercise control over the machinery of state through the application of this principle. They strive to reconcile their

class differences through the operation of acceptable formula for the allocation, distribution and sharing of national resources and benefits among themselves. While they do this, they capitalize on and fan the ethnic differences among the various Nigerian peoples to win the support of the masses in their areas. And in the course of this elite game, members of this class climb to positions, amass wealth and enrich themselves illegally. Thus, the federal character principle is merely an elite ploy, which would not materially improve the lot of the downtrodden in whose name it is raised (Awa 1972, Agbaje 1989, Gboyega, 1989 in Aderonke, 2013). The federal character principles satisfied the quest for representativeness and appointment among various groups. However in the application of the formula as noted by Bodunrin (1989) in *Students' Diary* (2013) choices are often made on the basis of other criteria other than merit. For example, the federal character as applied in educational sector leads to lowering of standard against national interest. In the army, it leads to the production of sub grade soldiers and officers. In the civil and public services of the federation, standards and professionalism are compromise by eschewing meritocracy without recourse to standards. The federal character becomes morally reprehensible and an act of injustice. Viewed from this perspective, the quota factor in the federal character principle becomes counterproductive to peaceful and orderly progress, and the development of Nigeria.

In recent times, one of the major and most problematic outcomes of the federal character principle is the complexity of the interest and agitations by some states and local government as well as some ethnic and religious groups in the country. For example, the recent agitation for more states and the proposal for the creation of additional twelve states by the Committee on National Conference are indications of the unending agitations for more representation by the various ethnic groups in the country with great implication for national stability if implemented. Also, the establishment of federal educational institutions in every state was to enhance greater representativeness and distribution of government facilities and other opportunities. However, this has led to the multiplication of governmental and administrative units and facilities which has become very expensive and another drain pipe to the nation. Also, the recent Privatization of Power Holding Company of Nigeria (PHCN) has put the wealth of this country in the hands of a few Nigerians at the expense of majority of the people. The masses need to be given equal opportunities for employment, equitable share in the distribution of resources and benefits of the state in terms of provision of social amenities such as education, access to good roads, portable water, housing; etc, which will bring about improvement in their standard of living. To this end, the political system, should arrest the exploitation of the less privileged in the society and redress their feeling of insecurity. It is only when this welfare issue is address that the great majority of the people can “develop a sense of national identify transcending parochial loyalties of ethnicity, religion, language and region” (Agbodike, 1998 in Adeosun, 2011).

Challenges of Federal Character Principle in Nigeria

Lack of adequate representation by the federating states in Nigeria constitutes the greatest threat to national integration and economic development. Remarkably the choking socio-economic competition among the various ethnic groups in Nigeria manifest in ethno-regional conflict and tension that characterize Nigeria since 1960. Thus the relationship between these groups is characterized by fear and suspicion of domination of one state or

ethnic group by another. This leads to national disintegration and consequent canonical underdevelopment. Meanwhile, this suspicion and fear between groups is historical. However, it became pronounced when Sir Fredrick Lord Lugard began the process of subjecting ethnic groups with a history of mutual distrust and hatred together as one Nigeria. Remarkably, these ethnic groups are not of equal population and hence some tend to dominate others thus exploit others. Today we talk about the Igbos, the Hausa/Fulani and the Yoruba as the major ethnic groups and the Urobo, Itshekiri, Ijaw, Igala, Kanuri, Nupe, Tiv and more than 200 others are referred to as the minority. These inherent competitions for control of the limited resources has the tendency to destabilize hence disintegrate the polity and stifle economic development. This explain, why Dudley (1973) argued that political stability is the inevitable consequence of the failure of constitutional and institutional rules to find firm roots in the society and in the mind of the political actors. This political instability is a consequence of the nature and character of the post colonial states. The Nigeria state could not perform the primary role of state, rather, it become part of the struggle which it ought to moderate. This tends to discourage ethnic balancing which is a prerequisite for economic development. Similarly, Ononogbu and Okoroiwu (2019) in their work also identified the challenges of federal character principle in Nigeria. The following are the identified challenges;

Marginalization/Disunity: Originally, the principle of federal character was provided in the constitution to foster unity in diversity and promote peaceful cooperation, but its application has caused envy and jealousy which has led to disunity. Imagine a situation where the posts of vice chancellor in Nigerian federal universities are exclusively reserved to indigenes of the state or region where the university is cited. Thereby, making it practically impossible to have a Yoruba man being a vice chancellor in a university that is in the South East viz a viz; regardless of being the most qualified in line to assume such post. Also, a situation whereby a citizen worked hard, met the necessary requirements for a position or an admission but was rewarded with denial to such while his or her fellow citizen was given such despite the fact that such individual did not attain the skillful requirement for such but because the individual originated from a state regarded as economic or education disadvantaged. The rightful individual for such opportunity will have no option than to hate the nation called Nigeria and the citizens of such economic and education disadvantaged states thereby leading to disunity (Tion, Aondoakaa and Orluchukwu, 2014).

Inequality: One of the major reasons for the introduction of the federal character principle was to solve the problem of inequality in Nigeria. But from the look of things it seems the principle is helping in effectuating what it is supposed to be fighting against. Many policy analysts have criticized the principle on the ground that the distributive justice which it aims to achieve is of two types; namely arithmetical and proportional equality. Simple arithmetical equality assumes the equality of all state. But states are not equal. They differ in size, population and size of the pool of eligible candidate for appointment. In the words of Ayoade (in Segun et al, 2014), “there is no greater inequality than the equal treatment of unequal”. Proportional equality would therefore be fairer and less discriminatory than arithmetical equality. But more appropriately, the appointment must reflect the size of eligible candidate per state so that excellence is rewarded. Competent people who are disqualified based on state of origin and such other spurious criteria cannot be a willing material on which to erect the unity of the country.

Corruption and Inefficiency: Many public officials hide under the federal character principle to promote corruption by willingly denying some individuals some positions and granting same to their favorites who lacked primary knowledge of the functions of such office. The people that gained from such immoral and unprofessional act will have no option than promoting incompetence that will end up increasing the rate of corruption in the polity.

Also, by encouraging the recruitment of services of unqualified personnel, the Federal Character Principle sustains inefficiency in service delivery which will in turn, force the government and populace to witness massive economic and financial loss thereby worsening the health of the nation's economy.

Methodology

Considering the importance of federal character to ethnic balancing, the use of both primary and secondary sources of data becomes imperative. This study is a scientific research which has to be systematically analyzed subject to high reliability and verification. The population for this study is Four Hundred and Sixty Seven (467). In this study, a stratified random sampling technique was used to select the staff of the Federal Polytechnic, Ilaro. A purposive random sampling was then used to select respondents to be included in the study sample in each strata in the various units and departments. The use of this technique enabled the researcher to pick those who best met the purposes of this research. One hundred (100) respondents were chosen from the population to which questionnaires were distributed. Out of this number, 96 were returned. The questionnaires were distributed to people from various units. Responses were recorded by tick in the boxes/spaces provided.

Data Presentation and Analyses

Table 1: Questionnaire Distribution and Retrieval

Questionnaire Retrieved	Frequency	Percentage (f)
Un-retrieved	4	4
Total	100	100

Source: Field survey (December, 2021)

Table 1 shows that 100 questionnaires were administered to the respondents, out of which 96 representing 96% were correctly filled and returned, 4 questionnaires representing 04% were not returned.

Table 2: Frequency distribution of Age

Age	Frequency	Percentage (%)
20 – 25years	-	-
26 – 30years	-	-
31 – 35years	21	21
36& Above	75	79

Total	96	100
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Source: Field survey (December, 2021)

Table 4.2 shows the age distribution of the respondents. From the responses none of the respondents is between 20-25years of age. Similarly, none of the respondents belong to age group 26-30years while 21% are between 31-35years and 79% between 36 and above.

Table 3: Academic Qualification of Respondents

Departments	Frequency	Percentage (%)
MSC/MBA	39	41
HND/BSC	35	37
OND	10	10
Other Qualifications	12	12
Total	96	100

Source: Field survey (December, 2021)

Table 3 shows the academic qualification of respondents. It showed that 41% of them have MSC/MBA, 37% with HND/BSC while 10% are with HND and 12% belongs to the others category.

Question 1: The application of Federal Character principles helps in ethnic balancing?

Table 4: Application of Federal Character

Responses	Frequency	Percentage (%)
Strongly Agree	50	53
Agree	25	26
Undecided	5	05
Disagree	6	06
Strongly Disagree	10	10
Total	96	100

Source: Field survey (December, 2021)

As shown in table 4, out of 96 respondents sampled, 53% of the respondents strongly agreed that the application of Federal Character principles helps in ethnic balancing, 26% of the respondents agree while 05% were undecided, 06% of them disagreed and 10% strongly disagreed. With this analysis, it shows that the respondents believe in the application of federal character.

Question 2: The Federal Polytechnic, Ilaro has applied the federal character principles in the employment of workers?

Table 5: Federal Character Principles on Workers

Responses	Frequency	Percentage (%)
Strongly Agree	60	62
Agree	30	29
Undecided	03	03
Disagree	03	03

Strongly Disagree	00	00
Total	96	100

Source: Field survey (December, 2021)

Table 5 shows that 62% of the respondents strongly agreed that the Federal Polytechnic, Ilaro has applied the federal character principles in the employment of workers, 29% of them agree. Also 03% were undecided; and another 03% disagree to the statement that the principle of federal character is applied at the Federal Polytechnic, Ilaro.

Question 3: Federal character principles have facilitated ethnic balancing at Federal Polytechnic, Ilaro?

Table 6: Federal Character Principles and Ethnic Balancing at Federal Polytechnic

Responses	Frequency	Percentage (%)
Strongly Agree	71	74
Agree	20	21
Undecided	05	05
Disagree	00	00
Strongly Disagree	00	00
Total	96	100

Source: Field survey (December, 2021)

Table 6 indicates that 74% of the respondents strongly agreed that federal character principles have facilitated ethnic balancing at Federal Polytechnic, Ilaro, 21% of them agreed. 05% were undecided, 00% of them disagreed and 00% strongly disagreed. The analysis implies that the Polytechnic, as facilitated federal character.

Question 4: Federal character principles have affected the employment of qualified manpower?

Table 7: Federal Character and Employment

Responses	Frequency	Percentage (%)
Strongly Agree	24	25
Agree	58	60
Undecided	12	13
Disagree	02	02
Strongly Disagree	00	00
Total	96	100

Source: Field survey (December, 2021)

From Table 7, 25% of the respondents strongly agreed that federal character principles have affected the employment of qualified manpower, 60% of the respondents agreed, while 13% of the respondents were undecided and 02% disagree to the statement. The implication of this is that with federal character, employment of unqualified is certain.

Question 5: Federal character principle has promoted the growth of ethics of ethnic balancing in Nigeria?

Table 8: Federal Character and Ethnic Balancing

Responses	Frequency	Percentage (%)
Strongly Agree	06	06
Agree	05	05
Undecided	00	00
Disagree	30	31
Strongly Disagree	55	58
Total	96	100

Source: Field survey (December, 2021)

Table 8 shows that, 06% of the respondents strongly agreed that federal character principle has promoted the growth of ethics of ethnic balancing in Nigeria; 05% of the respondents agree, while 00% of the respondents were undecided, 31% of them disagreed and 58% strongly disagreed.

Question 6: Lack of the application of federal character principles is an impediment to ethnic balancing at Federal Polytechnic, Ilaro?

Table 9: Impediments of Ethnic Balancing

Responses	Frequency	Percentage (%)
Strongly Agree	41	43
Agree	36	37
Undecided	05	05
Disagree	08	08
Strongly Disagree	06	07
Total	96	100

Source: Field survey (December, 2021)

Table 9 shows that, 43% of the respondents strongly agreed that lack of the application of federal character principles is an impediment to ethnic balancing at Federal Polytechnic, Ilaro, 37% of the respondents agree, while 05% of the respondents were undecided, 08% of them disagreed and 07% strongly disagreed to the statement.

Question 7: Without the application of federal character principles in government organisations the ethics of ethnic balancing cannot be achieved at Federal Polytechnic, Ilaro

Table 10: Federal Character in Government Organisations

Responses	Frequency	Percentage (%)
Strongly Agree	35	37
Agree	20	21
Undecided	00	00
Disagree	20	21
Strongly Disagree	21	22
Total	96	100

Source: Field survey (December, 2021)

Table 10 reveals that 37% of the respondents strongly agreed that without the application of federal character principles in government organisation the ethics of ethnic balancing cannot be achieved at Federal Polytechnic, Ilaro 21% of the respondents agreed while, 00% was undecided, 21% of the respondents disagreed and 22% strongly disagreed.
Question 8: The Federal Polytechnic has facilitated the growth of ethnic balancing through federal character?

Table 11: Growth of Ethnic Balancing at Federal Polytechnic, Ilaro

Responses	Frequency	Percentage (%)
Strongly Agree	58	60
Agree	35	37
Undecided	03	03
Disagree	00	00
Strongly Disagree	00	00
Total	96	100

Source: Field survey (December, 2021)

Table 11 shows that, 60% of the respondents strongly agreed that the Federal Polytechnic has facilitated the growth of ethnic balancing through federal character, 37% of the respondents agreed. While 03% of the respondents were undecided, 00% of them disagreed and 00% strongly disagreed.

Question 9: The Federal Polytechnic Ilaro, has a mechanism put in place for promoting ethnic balancing?

Table 12: Mechanism for Promoting Ethnic Balancing

Responses	Frequency	Percentage (%)
Strongly Agree	46	48
Agree	30	31
Undecided	00	00
Disagree	11	12
Strongly Disagree	09	09
Total	96	100

Source: Field survey (December, 2021)

From Table 12, 48% of the respondents strongly agreed that the Federal Polytechnic Ilaro has a mechanism put in place for promoting ethnic balancing, 31% of the respondents agreed while 00% of the respondents were undecided, 12% of them disagreed and 09% strongly agreed. Majority of the respondents agreed that to the statement.

Question 10: The mechanism put in place by the management of Federal Polytechnic, Ilaro for promoting ethnic balancing respects the application of federal character principles?

Table 13: Mechanism for Promoting Ethnic Balancing

Responses	Frequency	Percentage (%)
Strongly Agree	42	44
Agree	36	37
Undecided	05	05
Disagree	08	09

Strongly Disagree	05	05
Total	96	100

Source: Field survey (December, 2021)

Table 13 shows that, 44% of the respondents strongly agreed that The mechanism put in place by the management of Federal Polytechnic, Ilaro for promoting ethnic balancing respects the application of federal character principles, 37% of them agreed while 05% of the respondents were undecided, 09% of the respondents disagreed and 05% strongly disagreed.

Discussion of Findings

This study examines the link between federal character and ethnic balancing in Nigeria. In achieving the objectives of the study, some questions were asked. Questions were asked and formed from this.

The result of the first test showed that federal character Principles has not significantly impeded the ethics of ethnic balancing in Nigeria. This was further supported with the responses from the respondents. 53% of the respondents strongly agreed that the application of Federal Character principles helps in ethnic balancing. Similarly, 60% of the respondents strongly agreed that the Federal Polytechnic has facilitated the growth of ethnic balancing through federal character.

The second test showed that there are no possible mechanisms for the promotion of ethnic balancing in Nigeria a study of Federal Polytechnic, Ilaro. The response from the respondents negates this when 48% of the respondents strongly agreed that the Federal Polytechnic Ilaro has a mechanism put in place for promoting ethnic balancing. Also, 44% of the respondents strongly agreed that The mechanism put in place by the management of Federal Polytechnic, Ilaro for promoting ethnic balancing respects the application of federal character principles.

Conclusion

The paper explored the federal character principle, its applicability and challenges in Nigeria. From the available data and cases reviewed in this work, we discovered that the federal character principle has not being able to address the obvious imbalances in the various segments of the country owing to its method of application. Also, it was discovered that the preference given to the Northern regions in employment of staff has not improved the status of the Northern region, the reason is because the Northern elites probably have not put in their best to change the attitudinal disposition of their youths towards Western education. The principle on its part is not a total failure, but there is need for urgent adjustment in the application of the principle in such a way that it will not be targeted in favoring a particular sect of the country at the expense of other sections.

Recommendations

The study recommends the following for the successful application of the federal character principle:

- The principle should not be applied only when it is in the interest of a particular section of the country. Rather it should be applied in such a way that every section of the country will be carried along.
- The study recommends that the federal character principle should not be applied in employment processes into government established institutions. Everything regarding employment should be on merit and not sentiment.

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BANDITORY AND SECURITY THREATS: AN ANALYSIS OF INSECURITY IN NIGERIA

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Daniel Mevayerore IGBINI

Department of Political Science, Delta State University Abraka,
Delta State, Nigeria, Abraka
igbinidaniel@gmail.com

Abstract: *Nigeria has remained a violent-ridden nation in the psycho-political map of the world for a number of decades. To the outside world, poverty, civil disturbances, guerilla warfare, insurgency, diseases, domestic rebellion, terrorism, revolt and in recent times banditry are the core features of the continent, especially Nigeria. Banditry is one of the major forms of insecurity that has affected the northwest geo-political zone of the Nigeria for the past decade. It is against this backdrop that this paper examined banditry and its security threat in Katsina state. Qualitative methods of data collection and analysis were used to elicit and interpret data from documentary evidence of secondary sources. The paper adopted the natural state theory as its theoretical framework. The paper urges that without the security of humans, regional and national security of humans, regional and national security will be difficult to achieve and recommends among others that the federal government as well as Katsina state government should provide sustainable means of livelihood for the youths so as to avoid being easily sway or becoming raw materials for seen threats to human security.*

Keywords: *Banditry, Impacts, Insecurity, Katsina State.*

Introduction

Nigerian state is grappling with continuous rising incidences of insecurity, repeated pattern of attacks on individuals and agitations from ethnic cleavages. The indicators of the prevailing insecurity cases in Nigeria include armed robbery, kidnapping of innocent citizens, human trafficking, religious motivated killings, inter-tribal or communal wars, terrorism, nefarious activities of gangster/cultist, insurgency and banditry. Nigeria's North west is presently suffering deadly conflict involving many armed organizations, including herder-allied groups, criminal gangs and jihadists. The last decade has seen thousands of people killed and hundreds of thousands displaced with many fleeing into neighbouring countries.

Banditry has become a harsh reality in today's Nigeria society; it has come in different forms of manifesting as kidnapping, suicide attacks, self-suicide bombing, insurgency, armed robbery and the life (Adegoke, 2020). Banditry according to Saminas, 2013 cited in Okolie and Ugwu (2019:205-206), is "a crime that has been precipitated and sustained by the prevailing socio-existential environment in the rural sector characterized by a high proclivity to criminal indulgence. In the case of the focal area, northwestern Nigeria, presence and prevalence of under-policed and unregulated hinterlands, forestlands and borderlands have provided an enormous opportunity for rural criminality. The presence of viable but vulnerable rural economy based largely on animal husbandry crop production and informal mining, equally provides and avalanche handy crim objects/targets; cattle, cash, treasure, etc., the virtual absence of governmental security apparatus in most rural communities give incentive for criminal opportunism and impunity. The ecology of crime

bring about not only motivation but also temptation for criminal indulgence. Under this circumstance, criminal deterrence takes flight all forms of predatory crime prevail. This is typically the situation in Northwestern Nigeria especially Katsina where rural marauders and brigands are having a sustained field day in a criminal escapade that is threatening to overrun the entire region. Banditry in the Northwestern states of Katsina, Zamfara and Kaduna has reached alarming heights in recent years. They have actually settled in the Zamfara state, setting up fortified enclaves in the hinterland and on the frontiers, from where they plot and carry out their operations (Okolie, 2019). This study is an attempt to explain the phenomenon of banditry, the dynamism and operating pattern of crime in Katsina State, Nigerian against the backdrop of the rapid upsurge of the incidence in recent times.

Methodology

The design of this research study is quantitative. It employed document review method of data collection with strong reliance on secondary sources including journals, textbooks, magazines and the internet. Data collected were analyzed using quantitative descriptive analysis based on logical deduction.

Review of Related Literature

The concept of Banditry

Banditry according to Okolie and Okpaleke (2014:351), refers to “the incidences of armed robber or allied violent crimes, such as kidnaping, cattle rustling and village or market raids. It involves the use of force or threat to that effect, to intimidate a person or a group of persons in order to rob, rape or kill perpetrated by criminal opportunists and syndicates in the countryside and frontiers of countries”. In the view of Kokli (2019:1), banditry is an “armed violence driven principally by the criminal intent to steal and plunder. It is motivated by the quest for economic accumulation and the victims are individuals and communities with material valuables”. Banditry is an “act of robbery and violence in areas where the rule of law has broken down”. It consists of the organization of armed bands for the purpose of attacking state or social institutions on enterprises or individual persons” (Collins, 2000 cited in Ladan & Matawalli, 2020: 439). According to Nigeria Watch (2011), banditry means occurrence or prevalence of armed robbery or violence crime. It has been a common genre of crime as well as cause violence in contemporary societies.

The concept of banditry has “been changing over time, space and circumstances. A bandit in the 19th century. In America and Europe was a freedom fighter whose aim was partly to ensure the emancipation of the downtrodden from the upper class or colonized over the colonizer. More so, bandits like Herachio Bernel and Chuchoel Toto were often celebrated as heroes of Mexican independence. Therefore, Mexicans have warm regards and respect for those ‘social workers’ termed bandits, while on the contrary, the government often considered them as nuisance and outlaws that need to be eradicated” (Michael & Watts, 1989:8). In the context of this study, a bandit is a robber or outlaw person belonging to a gang who uses weapons to steal or rob the people and typically operating in an isolated or lawless area of a country. Rotberg (2007:33) avers that “crime against persons, including murder, rape and robbery has grown in scale and viciousness in

Nigeria since 1999". This has been demonstrated by the pervasive trend of armed banditry in the country, especially in northwestern Nigeria, which in effect mirrors the Africa-wide experience.

The problem of banditry in Nigeria, especially in Katsina state borders on existing over common economic interests and is inextricably tied to farmer-herders conflict. These people often fight over space, the resources therein and survival within the same geographical landscape. Survival instincts and other extraneous factors like ethno-religious differences have contributed to how people who once lived together harmoniously have become sworn enemies and warring communities. It can be safely argued that incidents of farmers-pastoralists conflicts and skirmishes are as old as the evolution of human societies (Oyinloye, 2020). The failure of the government policy on grazing reserve has left Fulani herdsmen to their date in determining where and how to raise their livestock. Amidst this situation, some medium and large corporate livestock farms have emerged while many other Fulani herdsmen maintain their nomadic live styles. The latter live a sort of jungle life, characterized by self-help in the search of grazing field across states trying to protect their lives and properties from wild animals and cattle rustlers. These among other things have led to Fulani herdsmen being armed with dangerous military weapons like AK 47 and other dangerous ammunitions which in turn have led to series of increased bloody killings involving the Fulani herdsmen and local famers in different rural communities across the country (Dutse&Olowoselu, 2020).

The growing threat of banditry is claiming victims in hundreds. Several children have been orphaned and women become widows overnight while the issue of good insecurity as well as humanitarian strategy will further make lie unbearable for many Nigerians. The facts are scary, while about 2,000 people were murdered in 2018 in the six states of northwestern Nigeria in 2018, over 2,200 were killed in 2019 and 1,600 killed between January and June, 2020. About 247,000 people had been displaced while their activities alone have led to the production of more than 41,000 refugees. In Zamfara alone, over 8,000 people have been murdered in the last decade. 200,000 displaced internally and others fleeing to neighbouring states (Okolie&Okpaleke, 2014).

Banditry and Insecurity in Katsina

Farmers and pastoralities skirmishes in Kastina state have recently grown to the level of high criminality and banditry with heavy human and economic costs, sexual assaults of women and girls, attacks on civilian and law enforcement against, attacks on villages and destroy of farm produced. The farmer/herders conflict has traditionally consisted of disputes over natural resources and it is often presented as social conflict between settlers and nomadic people (Olmloye, 2020). Over the few years, banditry has crated widespread insecurity in Nigeria, especially in Katsina state; increased tensions between various ethnic communities, interrupted development activities; inflamed religious tensions; upset the nation's social cohesion and frightened off investors (Maigari et al., 2021). Kidnapping, armed robber, cattle rustling, and lotting constitute breast of national peace and security. Oyinloye (2020) affirms that rural banditry in Katsina state has resulted in wanton killings and destruction of properties. In effect, the incidence and prevalence of banditry in northwestern Nigeria, especially Katsina state raises a fundamental question about the government's ability to govern effectively. The state

security machinery has so far failed to tackle the scourge of banditry. This failure stems from a lack of political will and operational challenges (Okolie, 2019).

The situation is made worse by the absence of effective community policing mechanisms capable of addressing the hinterlands' peculiar security challenges. Importantly, the prevailing socio-existential conditions in northwestern Nigeria have complicated the security situation. The rural pastoral sector is not well regulated, illicit artisanal mining and proliferation of arms and light weapons in the region are veritable factors responsible for banditry and other security challenges, in states such as Katsina, Kaduna, Kebbi and Zamfara, there exists a clan of livestock bandits, who specialize in mass cattle raids (Okolie&Ugwu, 2014). According to Ladan and Matawalli (2020:442), Katsina State with its vast arable lands suitable for both livestock and fisheries, should be a food secure state, but a number of factors have been challenging the attainment of food security in the state. One of those factors is banditry". They further posit that one of the most devastating impacts of banditry in Katsina State is the killing of farmers by the bandits. Other impacts including kidnapping of farmers, seizing of farmlands, blocking of local trade routes, burning of raiding of grain silos, stealing of cattle and chasing farmers out of their farmers.

Oyinloye (2020) avers that preferential treatment, loss of traditional relationship, poor land management and policy, poor management of water resources, bush burning, population increase, crop damage, bigol, ethno-religious factors, hate speech and bandits, lack of voice and political representation are the roots and immediate causes of banditry in Nigeria. In the month of May, 2020, some farmers in Katsina state warned that the resurgence of nefarious activities of bandits if not properly tackled by security agencies and state government would create unprecedented food crisis in the state (Sardauna, 2020). The occurrence of rural banditry is not peculiar to Nigeria. In effect, the phenomenon has been an important facet of the national security debate in the conflict-ridden countries of Africa's Sahara and Sahel. Even beyond the shores of Africa, organized rural banditry has prevailed in places like Latin America where it is often implicated in the morass of drug war. Also, in the far East, rural banditry has been a veritable form of the so-called 'frontier criminality'. It has also been prevalent in the agrarian sector of Sweden within the continental belt of Europe. The common identifier of rural banditry across these climes is its apparent opportunistic and predatory tendencies which has made its occurrence intractable in some cases (Callen, Gulzar, Rezaee& Shapiro, 2018; Gaye, 2018).

However, the Nigerian state has increasingly grossly demonstrated a pathological incapacity to govern. The government at all levels has exhibited a woeful lethargy in dealing with national security emergencies. Therefore, while the menace of banditry subsists, the government has persistently failed to muster requisite political will and commitment to tackle the situation. As Jaafar (2019:3) would like to put it "what we are seeing today is not something that is historically unprecedented. What is new is the incapacity, indifference or unwillingness of the Nigerian state to put the insurgency of rural banditry under its effective control".

Payment of Ransom

According to Maigari, Dantani and Arafat (2021:56), "deducing from the qualitative data, the narrative and submission from the interviews have provided a

contextual explanation for the rising rate of kidnapping for ransom is some part of Katsina. The ransom payment has contributed to the formation of new bands of kidnappers and such money cajoled. Some people into the acts. The findings also indicate that the absence of a mechanism by the security agencies to ensure that release of those in captivity without payment of ransoms is among the factors that contributed to the deterioration of the security situation in the areas. This is related to the conclusion of Brandt, George and Sandler (2016) who concluded that the more a terrorist group receives ransom or concessions from the government, the more the abduction or kidnapping they would initiate new attacks to obtain more gains. In the same vein, the findings have been corroborated by the submission of Shortland and Tom (2017) which observe that when criminals or abductors realized or suspected it is the government that would pay the ransom, there is tendency that they would demand an exorbitant amount of money; because of the belief that government has enough funds in its treasury. Corroborated by financial Actions task force (FATF) (2011:34) report: Money received in exchange for a hostage is found to have a direct effect on the viability of the armed groups to run their affairs and sponsor new attacks and abductions which found to be a major source of budget financing or revenue that finance the budget OAQIM.

The findings revealed that the villages visited could be described as ungoverned spaces, a part from Batsartown which is the headquarters of the local government, area, whereas in the remaining villages there was no presence of government either security personnel or social infrastructure which enabled the armed bandits and cattle rustlers to attack such village with ease, kidnap people, rustle livestock and ransack foodstuff without any assistance from the security operative deployed in Bastsari. The findings indicate that armed banditry, kidnapping and the rustling of livestock thrive in the areas because of the absence of government, especially security personnel and social infrastructure which disconnected the villages from urban areas. This correlates with Munyua (2015) finding, which found a relationship between ungoverned space and insecurity in developing countries. Many Africa and other developing countries are face with the problems of ungoverned areas which have now become a haven for the terrorists, armed bandits, insurgent, rebels and kidnappers.

Bandit's Modus Operandi, Hideouts and Routes

According to victims and security experts, armed bandits' attacks were mainly on rural communities. It could be argued that there is no village in Zamfara state that has not witnessed the impact of armed banditry. In carrying out their nefarious act, the bandits use dangerous weapons such as AK 47 Rifles, General purpose machine Gun (GPMG), Double or single barrel guns, Dane guns, local pistols, Machetes, knives and sticks. The attacks in most of the cases result to the wanton destruction of lives and properties at high level of human right violation. They usually strike during the night and in many cases, they attack during the night. In large numbers using motorbikes which give them added advantage as to easily escape immediately before the arrival of the security agent. Hence, the bandits understand the terrain more than the security agents. Some cases, they fire shots sporadically and kill unsuspecting persons indiscriminately before carting away animals, raping women or kidnapping for ransom (Nadama, 2019).

Armed bandits who terrorized villages in Zamfara state perpetrate their criminal act along different routes which cut across different parts of the state and the neighbouring states of Kastina, Kaduna, Niger, Sokoto and Kebbi state. Their major hideout is Subudu forest, the hoodlums pass through Rubudu, Indulmu and Tangila villages to Dandabi forest in Shinkafi L.G.A., Zamfara State. From Dandabi forest, they move to Dumburum forest in Zurmi L.G.A. of Zamfara state. From Dumburum first, the hoodlums may either go eastward towards Shamushalle thick forest in Birnin-Magaji L.G.A. of Zamfara state. At Shamushalle thick forest, the bandits follow Mai jan-Ido forest, through Tsabre forest to ceusami forest. Eastwards towards Batsari forest in Kastina state or westwards to Ajja forest which is another thick forest situated in Mada area development council (ADC) of Ciusua L.G.A from Ajja forest, the bandits move Southwards to Idonaka forest and to Feginmahe forest. From this point, they move eastward heading to Akuzo forest. From Akuzo forest, they move to Danmusa forest in Kastina state. they further move towards CirubinMaikius and Maidabino forest to Zangon-Pauwa forest in Kankara L.G.A. of Kastina State. They move westwards to Yankuzo and HayinAlhaji forest in Tsafe L.G. A. where they burst out at Bilbis/Magazu forest in Tsafe L.G.A. of Zamfara state.

Peace Agreement with the Armed Bandits in Katsina

The governor of Kastina state together with the governors of Zamfara, and the Sokoto states had on August 29, 2010, negotiated with the armed bandits that have been operating the three states. During the negotiation for peace deal, the inspector General of Police also participated in the discussion with some leaders of the armed bandits and kidnapers. Part of the agreement was the release of the armed bandits arrested the security operatives, who the court has not convicted, rehabilitation of rural infrastructure and social services. While on the armed bandits, they are expected to lay down their weapons and discontinue from launching attacks and kidnapping people for ransom and release people in their custody. Between August and October 2019, there was related peace and few incidences of kidnapping in Kastina state (Adegoke, 2020). However, from December, 2019, to December, 2020, the state has witnessed intense attacks on villages, setting houses ablaze and ransacking of properties as well as rampant kidnapping of people in both villages and urban areas particularly in Batsari, Kankara, Danmusa, and Safana local government areas of the state.

Based on the above background, all three bandits stated during IDI sessions that the government was negotiated and signed a peace deal with a segment of the bandits not all. Those who agree with the government has not power to direct or instruct other bandits or criminals who are not under their control. One of the armed bandits Bakiyama village avered that: "Each village has its group and their leaders operate independently but we know members of the band. Therefore, if the government had a dialogue with bandits or those kidnapers in Danusa LGA or Kankara, we will not know what they discussed with the government. Many of the bandits in the forest are not aware of the agreement until after some months". Narrating further, armed bandits in Zamfara village explained that: "The major issue is that the government dialogued with the wrong people. Most of the people invited by the government hardly to operation either cattle rustling or kidnapping. You see, if the field operators are not aware of the ceasefire, how do you expect peace in the areas? Similarly, an armed bandit in Batsari expressed a different perspective of the peace deal

with the government and sated thus: “Like in your band, we have other bands operating in Jibiya LGA down to Zurmu in Zamfara State, but we have not been freed. That is the reason we do not have reason to stop our operation. You have seen out condition here, do you see any social amenities here? Have you seen anything to indicate tis place in in Nigeria?”

It could be deduced from the above qualitative data that the success or failure of an agreement or negotiation largely depends on the selection of appropriate leaders of non-state actors for dialogue. This implies that the majority of the leaders of armed invited by the government were legitimate leaders within their bands alone. Therefore, government and non-government organizations find it very difficult to identify the leaders with a broad sphere of command and authority who can influence the other bands to lay down their arms. This correlates with the findings of Cunningham in identifying leaders of the Syrian rebels for a round table dialogue. The rebels are increasing divided, with splinter groups, each operates independently, the preference on who should be invited for the dialogue or negotiation is a tasking exercise. Similarly, it is also in line with the findings of Baltrop (2008). In Burundi after the negotiations and series of peace task and agreement, it has found that some rebels group refused to submit their weapons to the government.

Additionally, some of the rebel leaders who surrounded their weapons and received money from the government used it to purchase new weapons as a lower price, remobilized surrendered rebels and present them to government to receive their new benefits. Additionally, Felbab-brwon (2020) observe that understanding the context of violence and personalities involved in the violence of war, before going to the negotiation table. Furthermore, Cronin, (2010) negotiated with the criminals does not often lead to an automatic end to violence or criminal activities.

The findings indicate that the government of Katsina state lacked adequate knowledge of the armed bandits organizational structure, operational strategies and leadership. Therefore, understanding the operational matrix and forming the armed bands of kidnapers and cattle rustlers determines who should be invited for negotiation or dialogue to avoid excluding others who may turn to be spoilers. Heger and Jung (2017) cautioned that negotiating with the rebel, spoilers may come up to disrupt the peace process and agreement when they felt they were deliberately or wrongly omitted or not invited to participate in the pace process or people do not have to stake in the violence are involved in the negotiation process. Spoilers tend to take up an arm and continue fighting. Furthermore, Idanis-St John (2008) concludes that negotiation between government and armed groups is one of the most sensitive parts and difficult in the negotiation process.

Table 1: Selected Bandits Activities/Attacks

Date and location	Nature of activity or attack
2nd -5th November, 2019 at Chambia and Shekewavillags, Batsari LGA.	Bandits chased out farmers of their farmlands when they went to harvest crops.
17th December 2019 around Jibia dan, Jibia LGA.	Bandits moved on motorcycles on cattle routes passing around Jibia dam
18th December 2019 around Jibia dam, Jibia LGA.	Bandits move on motorcycles on cattle routes passing inside Jibia dam.
1st January, 2020 at Mata Mulki village of Batsari LGA.	Bandits kidnapped 6 teenage girls working on the farm but drop them and fled into their forest hideout.
18th April, 2020 at Makuarachi and Duana of Safana LGA.	Bandits continued reprisal attack in Safana LGA killing 23 people who were farmers.

20th April, 2020 at Sabon LayinGaladimaFaskari LGA.	Bandits attacked the village at night burning and stealing some domestic animals.
22nd May, 2020 at farmland outside Dandume town, Dandume LGA.	Bandits attacked a farmer on the farm forcing him to hand over two bulls.
22nd June, 2020 at Mai Kwama village Dandume LGA.	Bandits attacked the village killing 3 farmers. Stealing foodstuffs kept in grain silos.
12th July, 2020 at Mai Iyali village of Fastari LGA.	Bandits attacked a farm house to rustle 39 cows and 6 sheep from a cattle rearer.
14th September, 2020 at Daulai village of Safan LGA.	Bandits attacked the village, kidnaped 7 persons and bugled shop to steal food stuffs.

Source: Ladan and Matawalli, 2020

Theoretical Framework

Several theories have been propounded by different analysts to explain the incidence of security challenges in Nigeria such as frustration-aggression theory, deprivation theory, etc, which have provided insight into the existence of the phenomenon but are inadequate to explain their persistence in spite of measures exerted to curb the menace. This has prompted the present study to resort to the natural state theory as a suitable framework of analysis because of its ability to fill the gap in the extant measures of tackling banditry in Nigeria. The theory was propounded by Aristotle and was made popular by Jowett, 1885, Ross, 1937 and Coplestone, 1946. The theory holds that the state emerged in order to provide the needs of individuals, govern that human being cannot satisfactorily provide their basic need. That is “the state must exist for an end, and the end upon which the state exist is the highest good of man” (Zarri, 1948:1) that is having a platform that will ensure the satisfaction of the basic needs individual cannot provide for himself or herself. This highest good was captured as pursuit of happiness by Aristotle. According to him, happiness is central to human existence and a necessary goal to be pursued. Aristotle equated all communities aim at some good in a greater degree than any other body. To achieve the basic needs of life, Sabine and Thorson (1973) averred that man must understand the potentialities of growth that are available and the possible means for actualizing the require basic needs of man.it is important to emphasize that the provision of human basic needs of life is the primary goals of the state and it is the surest measure to ensuring peace, security, stability and order (Ndubuisi, 2017).

According to Sara (2008), security is one of the most basic needs of man. The inability of Nigerian government to handle the situation of insecurity has among others, been attributed extensively to the failure of the state to coordinate itself and meet up with its basic responsibility of protecting the citizens. This explains the reasons for the preponderance of several challenges of securing the Nigerian state, especially the consolidation of ethnic militia and regional armies such as Boko Haram, Tiv-farmers militant groups, Fulani nomads among others. Also, the audacity with which the Fulani herdsmen attacks communities in the northwestern states and other parts of the country that they feel are trying to constitute encumbrances to them and the grazing of their cattle even in people’s farmlands. This has the tendency of multiplying insecurity of different forms in Nigeria.

Conclusion and Recommendations

The country's security situation has been quite these and volatile over the years. While the northwestern states are still under the siege of Boko Haram, the northwestern states is steadily sliding into the morass of rural banditry. Just like Boko Haram insurgency, rural banditry in the northwestern Nigeria has metamorphosed from a sporadic onset to a rapid upsurge in the recent times. Again, like the insurgents, the bandits have become not only stationary but also sedentary in the frontiers and hinterlands of the northwestern states. The consequences have been massive plundering and carnage which has plunged the region into a sort of humanitarian eschatology. The payment of ransoms for kidnapping by both constituted authorities and private individuals has contributed to the sustenance of the existing armed groups and new ones in Katsina state. Ransom's payment has become a reliable source of income for the bandits and uses the ransom to procure weapons, feed and fund operational logistics for carrying out attacks. The federal government current counter banditry effort in Kastina state, based on military reconnaissance and raids is good and commendable, but it has foiled to bring about the needed respite owing largely to the operational challenges arising from insufficient knowledge of the terrain. This makes the involvement of local vigilantes and community watch groups who have a better knowledge of the terrain more important this is because without the security of humans, regional and national security will be difficult to achieve. Therefore, this study recommended that:

1. The federal government as well as Katsina state government should provide sustainable means of livelihood for the youths so as to avoid being easily sway or becoming raw materials for seen threats to human security.
2. Payment of ransom to bandits should stop. This will make majority of attacks ceased due to a lack of funds for the procurement of weapons.
3. There is need for forceful inland and frontier policing. Such policing must deal with the region's peculiar circumstances of diverse borderlines, forest lands and hinterlands. This requires a tactical synergy between the vigilantes and the state security operatives.

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**GOVERNMENT ADMINISTRATION: MANAGEMENT OF
RECRUITMENT PROCESS AND EMPLOYEE JOB
PERFORMANCE IN UGANDA**

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R. IMUCHERI

Department of Economics and Management Sciences
Busitema University

S.J. KAKUBA

Department of Political Science & Public Administration
Kyambogo University

Introductory Background

In today's globalization and workforce environment diversity, public sector performance is determined by the organization's capacity to obtain human resources with the necessary skills, abilities, and competencies. This is because employees are in charge of carrying out organizational tasks and responsibilities to attain organizational goals. Employee performance is defined as an employee's behavior in the workplace and how well they do the tasks that have been assigned to them. According to Tomczak, Lanzo, and Aguinis (2018), employee performance refers to the collective actions performed by employees to achieve organizational goals. Employee performance studies have mostly focused on employee outcomes and behavior (Tanjung, Rivai, & Siswandoko, 2018). Individual employee performance is measured by the quality and amount of output as well as the timely completion of obligations, according to Waris (2015) and Adebola & Banjo (2017). Employee performance in public organizations, including local governments, is deemed poor on a global scale (Gamage, 2014). Organizations in Indonesia, for example, are having difficulty attracting and selecting the proper personnel to fill open jobs, which has had a detrimental influence on employee performance (Sarinah, Gultom, & Thabah, 2016). Employee performance in Japan is likewise below agreed-upon norms and continues to deteriorate, which has been ascribed to organizations' incapacity to acquire the necessary skills (Gamage, 2014). According to studies carried out in Tanzania, the performance of public institutions has experienced a significant loss of performance as a result of bad recruitment methods (Karia et al. 2016). Similarly, in Uganda, poor recruitment and selection process marked by favouritism has impacted the performance of employees in Local Governments since recruiting authority was transferred to the Local Government level. (Ministry of Public Service Report 2017/2018).

Therefore, from the human capital theory perspective recruiting employees with a high degree of knowledge and abilities is critical and requires a rigorous recruitment process to ensure good employee performance (Armstrong et al. 2013). Human capital, according to Schultz (1960) as cited by Perepelkin et al. (2016), is the knowledge, skills, and talents that an organization needs to fulfill its goals and objectives. According to

Sitorus et al. (2021); Ezeali (2019); Selase (2018); the performance of any organization is determined by the quality of the personnel obtained during the recruitment process. Recruitment is the point at which personnel enters an organization (Abbas et al. 2021) and the path that an organization must take from there to ensure that the correct employees are attracted. Employees with the proper required skills and competence attracted from the pull of the available human resource assist the organization to accomplish its performance targets (Hemandez-de-Menendez et al. 2020). In that regard, recruitment involves all organizational practices and decisions that affect the number or types of individuals who are willing to apply for and accept a given vacancy (Bridges, 2018; Nesbit et.al, 2018; Berkelaar, 2017). This definition is in line with the conceptualization by Breugh (2009) who sees recruitment as involving organizational activities that influence the number and type of applicants who apply for a position and/or affect whether a job offer is accepted. Job analysis, attracting candidates, screening, choosing, and induction are all part of the recruitment process (Arifin et al, 2020; Goldstein et al, 2017; Breugh, 2017). However, there are no internationally accepted steps that all organizations follow during the recruitment process, some steps are omitted by different organizations.

In Uganda, job analysis, attracting candidates through advertising, screening, selection, and induction are the most expected ideal recruitment procedures in Ugandan local governments. However, according to studies like Nabaho (2013); Nassazi, (2013), the recruiting process in the Local Government is flawed because it lacks job analysis to gather detailed information about the position, the selection process is not based on merit, and induction is not properly carried out (Nabaho, 2013). Job analysis, according to Bako and Aladelusi (2017), is the first and most important step in the recruitment process. Orientation is the process of informing a new employee about the job's responsibilities and how to carry them out. Selection, on the other hand, is the process of selecting the best candidates for a job opening (Dany & Torchy, 2017). Internal and external recruitment are the two types of recruitment. Internal recruiting is concerned with sourcing individuals from within the organization, whereas external recruitment is concerned with attracting people from outside the organization (Okolie, 2020). According to Shenoy & Aithal (2018) employee referral, campus recruitment, advertising, recruitment agencies/consultants, job sites/portals, company websites, and social media are all examples of recruitment methods. Perhaps important to note is that most organizations use a combination of two or more of these as part of their hiring process (Sinha & Thaly 2013). They argued that the technique of recruitment to be employed is determined by the job vacancy, the resources available to the company's recruiting staff, and the amount of recruiting budget available. They further stressed that every organization collects relevant data on which recruitment strategies work best in a specific context.

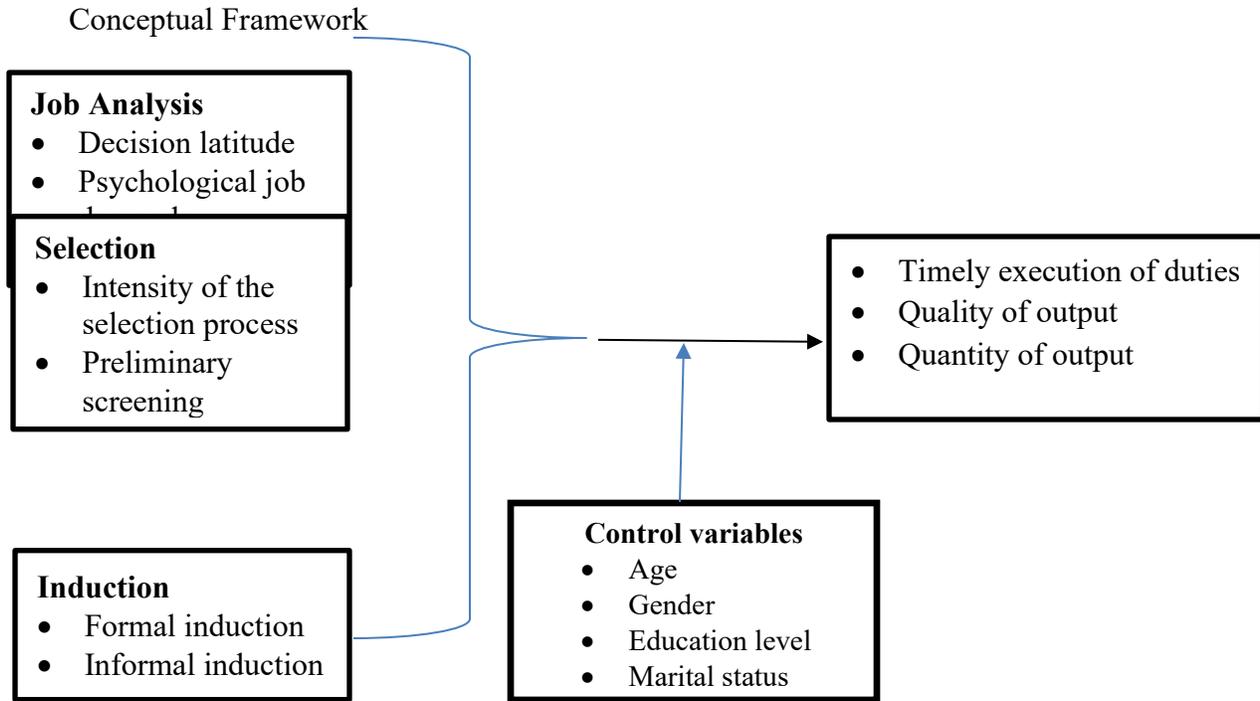
According to the existing literature, recruitment plays an essential role in identifying high-performing individuals (Gamage, 2014; Nasurdin, Ahmad & Tan, 2016). Employee performance in Uganda has been studied, and it has been discovered that recruitment has a major impact on performance (Deserranno, 2019; Nabaho, 2013). The transfer of personnel hiring and firing decisions to District Local Governments through the District Service Commissions (DSCs) was regarded as one of the cornerstones of Uganda's decentralization reforms from the standpoint of the Ugandan Local Governments (Nabaho & Kiiza, 2013). This is reflected in the Ministry of Local Government's Annual National Assessment Report (2017/2018), which indicated that worker performance in local

government has remained low; there is a general lack of willingness to perform, compromising service delivery to citizens as a result of patronage and favoritism, obstruct recruitment and selection processes in local governments which have affected employee performance (Adjei-Bamfo, 2018; Azfar et al, 2018). This study examined the impact of the recruiting procedure on employee performance in a decentralized Local Government environment.

Statement of the Problem

Employee recruitment in local government is handled by the District Service Commission (DSC), which focuses on identifying and selecting people with the necessary skills to meet district service delivery objectives, which are outlined in the performance handbook and communicated to each employee by their supervisor, who regularly evaluates their performance. The DSC is mandated by law to follow the standards set out by the Public Service Commission when carrying out its recruitment duty. The DSC is protected from foreign influence by Article 166(1) [d] of the Constitution and Section 58 of the Local Government Act (Cap 243) (GoU, 1997:5343), which specifies the minimum qualifications for members of the DSC. The public service commission approves members of the DSC based on the aforementioned minimal qualifications. However, according to the MoLG's Annual National Assessment Report (2017/2018), staff performance in local governments has been low, and there is general laxity among staff to perform, and reports have been late. This could be attributed to the fact that in Uganda, however, the recruiting system is characterized by patronage and nepotism, technical 'know-who' rather than 'technical know-how' rather than merit (Galiwango, 2008; Nabaho & Kiiiza, 2013). As a result, local governments have lost their ability to recruit talent, resulting in poor employee performance. It was against this background that necessitated carrying out this study, to determine the impact of the recruitment process on performance. Therefore, the study examined the effect of job analysis on employee job performance; the effect of selection on employee job performance, and the effect of induction on employee job performance in Pallisa District Local Government in the period 2007-2019.

The conceptual framework is based on the human capital theory, which states that human capital is comprised of an organization's employees' knowledge, skills, and talents. According to the theory, when the recruitment procedure is rigorously followed, the organization acquires people with talents, knowledge, and capacities. It is assumed that if an organization conducts a job analysis, it will collect enough information about the work to be able to find a suitable person from a pool of candidates who will assist the organization to meet its goals. Induction is also thought to have a substantial impact on performance. Finally, it is hypothesized that employee work performance is influenced by the recruitment process.



Source: Adapted from Sarinah, Gulto,m & Thaba (2016) and modified by researchers, 2021

Literature Review

The Concept of the Recruitment Process

The concept of recruitment has received a lot of attention in the world of management to achieve organizational goals through employee performance. Employees join and leave the organization for several reasons, including retirement, retrenchment, temporary or permanent disability, and death (Dwesini, (2019). Regardless, corporate organizations must guarantee that qualified personnel is hired to fill vacant positions (Kazim & Nasira, 2016). Recruitment is defined as the process of identifying potential employees who meet the credentials and needs of a firm or organization (Aulia et al, 2022). According to Abiwu (2021), recruiting is the process of locating and attracting adequately qualified individuals to apply for job openings inside a business. It's a series of activities used by an organization to attract prospective seekers with the necessary skills and attitudes. The primary goal of the recruitment process is to find the best candidate for the open position to find someone who can work efficiently. Various researchers have described recruiting, but the majority of formulations centre on attracting the finest individuals to fill open positions. This study defines recruiting as the process of discovering and attracting suitable candidates from within and outside an organization to begin evaluating them for future employment, as defined by Hong, Zhao & Snell, (2019). The terms recruitment and selection are frequently used interchangeably since the ultimate purpose of recruitment is to find the most qualified individual, which necessitates selecting from among the candidates who have been attracted (Baykal, (2020); Delgadova & Gullerova, 2017). Recruitment and selection, according to Suwanto & Subyantoro, (2019);

Gamage, (2014); Gultom, et al., 2016), are components of the same system or process that can be considered individually, however they are not mutually exclusive. They define recruiting as a procedure aimed at attracting adequately qualified candidates for a certain post from which a competent person can be selected and appointed.

According to Bibi & Khan, (2019,); Palulungan, (2018) in their study recruitment entails locating candidates through advertisements or other means, screening potential candidates through tests and interviews, selecting candidates based on the results of the tests or interviews, and onboarding to ensure that the candidates can effectively perform their new roles. According to Goldstein et al. (2017), recruiting is a program that attracts a group of qualified applicants to nominate the best candidate among them. Fitri, Handaru & Yohana (2021) argue that selection as the final stage of the decision-making process in the recruitment process entails screening candidates to determine which of those who apply to meet the organization's requirements. As a result, the focus of this research was partly on selection as part of the recruitment process. There are two sorts of recruitment: internal and external. Internal recruitment is the process of identifying and attracting candidates from among those already employed by a company. Kadam et al, (2016) argue that this could take the shape of a promotion from one position to another, or a transfer or deployment from one department to another for additional responsibilities. According to Shafique (2012), the term "external recruitment" refers to the process of identifying and enticing employees from outside the company. Advertisements in national publications, recruitment agencies, trade unions, headhunting, referral methods, universities and colleges, and other methods are commonly used (Hamza et al. 2021). Recruitment is a procedure that entails a series of actions that must be followed to find the best-qualified applicants to fill open positions. According to Gamage (2014), a systematic recruitment process entails notification of openings, job analysis, job description, advertising mode, and conducting interviews, followed by screening and selection. All of these processes are interconnected and contribute to the success of the recruitment process, therefore they should be given special attention. As a result, the current study investigates the impact of various hiring techniques on employee job performance.

Job analysis on the other side is the initial step in the recruitment process, and it usually occurs when a company decides to fill a vacant position (Ashraf, 2017). It outlines work requirements and how a certain job fits within the organization's structure, attracting qualified candidates in the process (Bejer et al, 2017). The selection process consists of a set of processes that applicants must complete. Selection, according to Karim et al. (2021), is the process of selecting individuals with relevant qualifications to fill existing or anticipated vacancies. This study considered the four indicators of selection namely academic background, recommendation letters, work experience, and interview assessment (Erawati, 2008; Goldhaber et al. 2014; Jacob, 2016; Kelkay, 2018); (Goldhaber et al. 2014; Jacob et al., 2016); (Jacob et al., 2016; Kelkay, 2018); (Kelkay, 2018; Wambua and Genga, 2018).

The Concept of Employee Performance

Employee performance, according to Tomczak et al. (2018), is defined as the collective activities performed by employees by organizational goals, including their distinct behaviors in specific contexts. According to Adebola & Aladelusi (2017), performance is a collection of work behaviors that combine skills and knowledge to

produce valued outcomes. Six factors can be used to assess an employee's job performance i.e. quality, quantity, punctuality, effectiveness, and independence. Job performance (Jibrin-Bida, Majid & Ismail, (2016); Erniwati, Ramly & Alam, 2020). Job performance according to Pahos & Galanaki (2018) is an achievement that is both practical and measurable. Motowidlo (2003) proposed a model of job performance that reflected behaviors that were part of the job performance sphere and were characterized as task performance. Task performance was defined by Coleman and Borman (2000) as behaviors that contributed in a direct line to the organization's technical core and comprised acts that were commonly recognized as part of the job. Employee performance is defined in the current study by Tomczak et al. (2018) as the collective activities performed by employees according to organizational goals, including their distinct behaviors in specific scenarios. In this study, employee performance is categorized into three categories: quality, quantity, and task execution.

Theoretical Review

The study was based on a combination of theories i.e. the Resource-Based View (RBV) which was proposed by (Barney, 1991). According to resource-based theory, an organization can gain a long-term competitive advantage if it has an inimitable or un-substitutable pool of human resources (Donnellan & Rutledge, 2019). This idea asserts that an organization's human resources can be used to develop and maintain a competitive advantage (Pham, 2020). The primary purpose of recruitment is to find the best candidate from a pool of candidates to fill open positions. Therefore, when an organization utilizes the recruitment process to its full potential, it is capable of securing the greatest human resource for achieving organizational goals. In this study, the resources are potential human resources with the skills and competencies that the organization wants to acquire and keep. When a company obtains the necessary human resources, it can gain a competitive edge by pursuing its objectives. According to this research, the organization can obtain these resources by successfully utilizing the recruitment process. For example, the organization can obtain unique and valuable human resources by doing a job analysis to determine the skills required for the job, communicating the job analysis information through advertisements, and interviewing the best candidate with those talents. During orientation, the organization will provide new workers with the skills necessary to meet the individual employee goals outlined in the job analysis. As a result, the resource-based theory enables employee performance by seeking to acquire potential employees with the required skills by conducting a job analysis to lay out what is expected of the employee, then seeking the required skills and orienting the newly hired employee to achieve what is stipulated in the job analysis, thereby enabling employee performance.

Schultz's human capital theory (1960) as cited by Little (2003) was also used to guide the study. Human capital, according to the Human Capital Theory, is comprised of an organization's employees' knowledge, skills, and talents. The foundations of this idea can be found in macroeconomic development theory. The primary concept of the human capital theory is that people's learning abilities are equivalent to other resources used in the creation of goods and services (Werner, 2021). The human capital hypothesis assumes that people's learning abilities are of equivalent worth to other resources employed in the manufacturing process (Jackson, Schuler & Jiang, 20014). According to the human capital theory, people with a high degree of knowledge and skills are more productive than their

peers. According to this study, organizations can use the recruitment process to find and hire workers with the necessary knowledge, skills, and talents. For example, the organization can establish the knowledge, skills, and capabilities necessary for an employee to accomplish the tasks by doing a job analysis, which is the first step in the recruitment process. The results of the job analysis are subsequently presented to potential candidates through advertising and orientation, ensuring that only candidates with the needed abilities are chosen throughout the selection process. This, in turn, aids the organization in recruiting the necessary personnel with the necessary knowledge, abilities, and competence, allowing the employees to perform.

Empirical Review of Literature

Job Analysis and Employee Job Performance

Job analysis is an important topic in human resource management since it is the foundation of practically all human resource activities (Townley, 2019; Jackson, Schuler and Jiang, 2014; Dessler, 1999: 127). Organizations utilize job analysis to develop critical papers including job descriptions, job analyses, and performance standards because it is a rich source of information. The documents guide human resource decisions in a variety of areas, including recruiting and selection, which are based on job demand and characteristics. As a result, academics consider job analysis to be the first stage of the recruitment process because it gives information about the hiring choice (Gamage, 2014). The recruitment process will be successful if both the recruitment team and the incumbent have clear knowledge about the job. This information is obtained through the practice of job analysis. As a result, it's feasible to believe there's a link between job analysis and performance (Grossman & Feitosa, 2018). This is because job analysis provides the organization with a much greater understanding of their employees' strengths and limitations, allowing them to take early corrective action to rectify any skills or job behavior inadequacies (Argyris, 2017). By outlining the tasks to be performed as well as the timescales for completing them, a regular or proactive job analysis approach can assist the organization in establishing a proper infrastructure (Aggarwal, 2019). A clear delineation of roles and responsibilities through job analysis and its availability to job performance demands that everyone in the organization understands their role and brings value to product/service development and delivery with minimal overlap or resource waste (Bilotta et al, 2021). Proactive job analysis also helps organizations operate better by encouraging positive attitudes and work commitment. Employees have clear guidance and defined targets to pace their performance when they get timely and accurate information on job duties and responsibilities, as well as the degree of performance required to accomplish results. Regularly updating job descriptions and performance criteria with the most recent job analysis will greatly assist human resource professionals in identifying and eliminating needless work requirements, conflict, and discontent (Stone, Cox, & Gavin, 2020); Gatewood, Field & Barrick, 2015). As a result, employees gain a better knowledge of the company's performance goals.

Human resource management's ultimate purpose is to optimize human resources through performance (Han et al, 2019). Organizations process this data, which is then utilized to hire and recruit new personnel. During pre-employment examinations for selection and promotion, job analysis is critical. The examinations that are held must be

related to the work. Knowledge, competence, various skills, and character (personality) factors are among the traits for which people are tested. When a company knows what competencies are required to complete a job successfully, it can choose what knowledge, skills, and abilities to test for. Each position's knowledge, skills, and competencies are determined through a job analysis (Sanghi, 2016). A job analysis establishes the minimal educational, certification, or licensing requirements for a position. Job analysis also determines the core tasks of the job. Job Analysis, according to Newman and Lyon (2009), is a common need for establishing a suitable pool for staff selection. Job analysis entails creating a job description and job specifications that are relevant to the job's knowledge, skills, and abilities (KSA). Employee performance necessitates certain abilities. This argument is supported by existing research (Kehoe & Collins, 2017). Khtatbeh (2020) for example, discovered that job analysis has a considerable impact on employee performance. The majority of this research, however, has concentrated on the methodological aspects of employment analysis. The goal of this research is to learn more about job analysis and how it affects employee performance.

Selection and Job Performance

Selection is the process of choosing the best candidate for the job from a pool of people that applied for the position. According to Brands et al, (2017), the selection is the final stage of the decision-making process in the recruitment process, which entails screening individuals to determine which of those who apply will most likely meet the organization's requirements. To Villeda et al (2019), is the process of determining whether a job candidate is qualified for a specific position in an organization whereas Blankson (2020), looks at the selection as the process through which an organization chooses an individual for a vacant job inside the company. An organization will not succeed unless its personnel is capable and well qualified. Mathis et al, (2016) argue that selection is a step in the recruitment process that entails screening candidates to determine those who will apply and those who are most likely to meet the organization's needs. Unconventional selection practices, such as poor policy in selecting candidates, inconsistency in the selection process, side-tracking employment tests and interviews, godfatherism in the selection process, and management influence on interviewers on whom to choose, can jeopardize an organization's business plan and pose performance challenges Bako & Aladelusi, 2017). Therefore, businesses should base their hiring decisions on merit so that they can select the best candidate for the job. When presented with an external applicant, a comprehensive selection system assesses a prospect's potential for the role and reduces the organization's level of uncertainty (Azizi et al, 2021). Employees are central to postmodern organizational management and therefore organizational employees should be carefully selected (Alansaari, Yusoff & Ismail, 2019).

Furthermore, it is stated that productivity may always be boosted when the best people are chosen for the task (Blankson, 2020). The procedure begins when applicants apply for a job and ends when a decision is made on whether or not they will be admitted. The selection procedure determines whether or not prospective applications will be accepted. According to Eysenck (2018); Simamora (2004), selection criteria can be divided into four categories: education, work experience, physical condition, and personality. According to Gamage (2014), there is a useful and significant relationship between recruiting and the selection and an organization's performance. The selection procedures

determine who will be hired. If all factors are considered, it will be able to identify qualified candidates and position them in the most appropriate employment. Using an effective selection procedure will increase the chances of finding a suitable person to fill a position. When the best applicants for the position are chosen, the output improves. The selection process for high-potential candidates for the suitable position should be meticulously planned and executed. According to Simamora (2004), staff selection factors are divided into education; references; experience; health; written tests; and interviews. Considering these factors while following the proper procedures delivers qualified human resources to a firm. According to a study conducted by Ekwoaba, Ikeje, & Ufona (2015), there is a substantial association between selections and organizational performance. Other research, such as Nebojsa, Mirija & Kristina (2020), and Karia et al. (2016), found that selection has a favorable impact on employee performance. Schneider, Powell & Bonaccio (2019) found, on the contrary, that selection did not predict employee performance. None of these studies, however, have looked at how selection affects employee performance in local government contexts, and according to Nabaho & Kiiza (2013), selection procedures vary depending on the organization's aims. As a result, the current study aimed at examining the impact of selection procedures on employee performance in the Pallisa District, which is a Local Government context.

Orientation/Induction and Employee Performance

Employee orientation is an important part of training that helps recruits get acquainted with their new work environment, coworkers, policies and procedures, and company rules and regulations (Bannett, 2001). Orientation is the process of presenting all staff employees with basic knowledge about the organization (Hayes & Ninemeier, 2009). The term "induction" has been invented and defined widely in the human resource management profession. Swanepoel et al. (2003) argue that "it is a structured process involving welcoming, receiving, and introducing newly appointed employees, providing them with the necessary information, and making them feel at ease so that they can settle down as quickly as possible, and become productive at work." It is the organization's processes that help new employees integrate into the organization, its members, and related duties (Kupias and Peltola, 2009: 18). In a similar vein, Foot and Hook (2008) agree with the premise that induction helps new employees settle into their jobs quickly and become active and productive. It's the last step in the employee recruitment process and the start of training and development. They went on to say that the induction procedure begins with the recruitment stage. (Nankervis et al. (2009) highlight that it is employees' first days on the job and continues throughout their career development in the company. According to the roles, rank, and range of program activities, induction programs vary (Wesson & Gogus, 2005). Induction is the process of bringing together the people and processes required to maximize the impact of a recruit on business outcomes. Employee orientation aims to familiarize recruits with the organization by providing an overview of the organization, coworkers, roles in the organization, familiarizing them with organizational rules and regulations, providing information on benefits, what is expected of them from the employer, and motivating them to perform well to achieve organizational objectives (Hayes & Ninemeier, 2009).

Employees' job performance is improved when they are familiarized with the job, tasks, and working environment through the orientation process (Rowland, 2017). The new orientation perspective is to change employee behavior and attitudes for them to mold expectations to achieve organizational goals (Asare, Bediako, 2008). Employee job performance is improved by orientation because employees know what to do and what not to do. They frame their behavior and expectations towards such parameters and establish goals on how to align with the organization's regulations and so meet the organization's objectives. Employee orientation improves job effectiveness through improving employee learning and behavior. Employees learn about the organization's goals and objectives as a result of their education. Studies by Raub et al, (2021); Aizzat, Ahmed & Tan (2016); Park et al, (2018); Rowland, Ruth & Ekot (2017) found an association between employee orientation and performance. Similarly, Mchete & Shayo (2020); Agbo (2020) found that induction and orientation have a substantial impact on employee job performance in corporate organizations. Other research conducted by Nabayinada & Matovu (2020) found a link between psychological orientation and employee performance in the Kampala city council. This study, however, only looked at psychological orientation, not overall staff orientation. However, important to note is that the studies reviewed are not exhaustive as it seems that there is limited research regarding the effectiveness of the recruitment process on employee performance in local government settings and more specifically Pallisa district local government administration justifying the need for this study.

Research Methodology

A research design is a blueprint for how the study will be carried out (Akcem, Guney & Cresswell, 2019). To establish the association between the study variables, the researchers used a cross-sectional survey approach. A cross-sectional design collects data at a single point in time (Zikmund Car & Griffin 2013). Ihuiebube-Splendor & Chikeme (2020); Hair, Black, Babin, & Anderson (2010), argue that it is appropriate for studies that seek to establish a causal relationship between variables to use a cross-sectional design because it allows the researcher to conclude the research findings using data that reflects what is happening at a specific time frame. Study population means the entire group of people that the researcher wishes to investigate and make inferences (Sekaran & Bougie, 2016). The target population in this study comprises the employees working in the nine departments at Pallisa District Local Government. The overall target study population was 158 employees working in the eleven departments at the district headquarters (Ministry of Public Service Report, 2018). Using Krejcie and Morgan (1970) table for sample size determination, a total of 108 participants were chosen to participate in the study. These were selected using stratified simple random sampling. This is a sampling technique where the target population is divided into homogeneous strata and a sample representing each stratum is selected using simple random sampling where each member has a known non-zero chance of being a participant (Sekaran & Bougie, 2016). The sample was stratified into departments and the members were proportionately chosen from each stratum.

Table 1: Sample Size Computation

Department	Target population	Sample size computation	Sample size
Administration	15	15/158*108	10
Production	29	29/158*108	20
Community based services	24	24/158*108	16
Education	08	08/158*108	06
Statutory bodies	08	08/158*108	06
Commercial and industry	03	03/158*108	02
Finance	31	31/158*108	21
Planning	05	05/158*108	03
Natural resources	12	12/158*108	08
Works	12	12/158*108	08
Health	11	11/158*108	08
Total	158		108

Source: Human resource Department 2021

Data Collection Instrument

The respondents' primary data was collected through questionnaires. Questionnaires allow researchers to collect more thorough information and differentiate responses based on age, job title, and gender. A questionnaire is objective and quick to administer, as well as offers useful information about the participants' attitudes and beliefs (Bird, 2009). On a 5-point Likert scale, the data was analyzed. According to (Zikmund, Car & Griffin, 2013), Likert scales with five points or more are preferable to those with fewer points since they provide greater variance, sensitivity, and measurement and information. Self-administered questionnaires were given out to selected employees. A self-administered questionnaire is a data-gathering method in which respondents are supplied with written questions that must be responded to in writing (Hair, Black, Babin, & Anderson, 2010). The data was collected using a structured questionnaire following the instructions of (Saunders et al., 2009). The questionnaires were delivered to staff in various departments, and responders were given enough time to complete them before being chosen after one month.

Validity of the Research Instruments

Validity refers to how well a concept measures what it claims to measure (Hair et al., 2007). Measurement of validity can be assessed in three ways: content validity (also known as face validity), construct validity, and criteria validity. Content validity was used in this investigation. The most crucial validity test is content validity (Hair et al., 2007). It was predicated on the degree to which a measurement accurately reflects the content's intended domain. To ensure content validity Factorability was done using the Bateletes test of sphericity and factors that loaded above 0.5 were retained for further analysis. Validity was computed by dividing the number of items that loaded above 0.5 by the total number of items. Because the data collection instrument was based on previously used items, it was modified to fit the study's needs, and factor analysis was used to confirm content validity. The content validity index of 0.7 was chosen as per Lynn's recommendations (1972). As shown in the table below, all of the items had a content validity index of greater than 0.8 and were thus used in the data analysis.

Table 2: Content Validity

Variable	Total number of items	Number of Valid items	CVI computation	CVI coefficient
Job performance	05	05	05/05	1.00
Job analysis	22	20	20/22	0.90
Selection	05	05	05/05	1.00
Induction	11	09	09/11	0.81

Source: Survey data (2021)

Reliability of Research Instruments

The study looked at the study variables' reliability to see if they could consistently produce consistent results. According to (Mugenda, 2008), an instrument's dependability is defined as the degree to which a research instrument produces consistent outcomes or data after multiple trials. The test-retest approach was used to assess the instrument's reliability before it was employed in the study. During the pilot trial, the questionnaire was given out. The Cronbach alpha was the statistical test used to determine reliability, and coefficients greater than 0.7 were considered dependable, according to Tabachnick and Fidel's writings (2010). The Cronbach alpha for the study variables is 0.7 or higher, as seen in Table 3 below. Employee job performance had a Cronbach alpha of 0.70, which was regarded as adequate. For job analysis, selection, and orientation, the Cronbach alphas were .74, .82, and .89, respectively. These findings suggest that the data is repeatable and that the same study may be repeated with consistent results.

Table 3: Reliability Statistics

Variable	Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items
Employee job performance	.70	.85	05
Orientation	.89	.90	11
Selection	.82	.82	05
Job Analysis	.74	.90	22

Source: Survey Data (2021)

Data Analysis and Presentation

The process of giving order, structure, and meaning to a large amount of data is known as data analysis (Silva, 2008). For analysis, the acquired data were entered into the SPSS program version 23. Correlation and regression analysis were used in the data analysis. The degree of the association and direction between the study variables were measured using correlation analysis, and regression analysis was performed to examine the predictive potential of the independent variable (recruitment process) on the dependent variable (employee job performance). Descriptive and inferential statistics were used to present the findings. Descriptive statistics were used to offer information about the samples' characteristics, and inferential statistics were used to test hypotheses, make conclusions, and apply the findings to the entire study population (Burns & Burns, 2008).

Findings and Discussion

A total of 108 questionnaires were issued to the field, with 98 of them being returned. This equates to a 90.74 percent response rate. Four of the returned surveys were

incomplete and hence were not considered for study analysis. As a result, there were 94 usable surveys, representing an 87.3% response rate. According to Harrison et al, (2020), a response rate of more than 50% is satisfactory, 60% is good, and 70% and above is excellent. As a result, the study's response rate is excellent for statistical analysis.

Table 4: Response Rate

	Frequency	Percentage
Administered questionnaires	108	100
Returned questionnaires	98	90.74
Usable questionnaires	94	87.03

Source: Survey data (2021)

Demographic Profile of Respondents

The study carried out an analysis of the demographic characteristics of the respondents to understand the nature of respondents who provided data. The demographic characteristics are presented in Table 5 below.

Table 5: Demographic Characteristics of the Respondents

Category	Sub category	Frequency	Percent
Gender	Male	52	55.3
	Female	42	44.7
	Total	94	100.0
Education level	Certificate	32	34.0
	Diploma	28	29.8
	1st Degree	32	34.0
	Masters	02	2.1
	Total	94	100.0
Tenure	Less than 5 years	34	36.2
	6 - 10 years	20	21.3
	11 - 15 years	16	17.0
	16 - 20 years	15	16.0
	More than 20 years	9	9.6
	Total	94	100.0

Source: Survey data (2021)

According to the table above, the majority of the respondents (55.3%) were male, while the remaining 44.7 percent were female. This means that male employees outnumber female employees in the Pallisa District local government administration. The results however show a balanced representation in terms of sex as the females also took part in the study. The results therefore can be generalized to both male and female employees. The length of service for the respondents was also considered. The number of respondents who have been in service at the District for less than five years was the highest at 34%. The respondents who had worked in the organization between 6-10 years were 21%, between 11-15 years were 17%, and between 16-20 years were 16% whereas the respondents who had worked with Pallisa District local government for more than 20 years were 9.6%. The results imply the respondents understand the recruitment and selection process carried out in the organization and the performance indicators meaning that they can respond to the questionnaire items from an informed point of view. Regarding the education level of the respondents, the results in the table above show that the majority of the respondents had

certificates 32.0% and 1st degrees 34.0% followed by diplomas 29.8%. The findings show that only 2.1% of the respondents had obtained a master's degree. The results imply that the respondents had attained education and therefore had sufficient knowledge to read, understand and respond to the question items.

Descriptive Statistics

Before data analysis, the study sought to determine the opinion of the respondents as regards the questionnaire items and how they relate to employee job performance. The descriptive characteristics of the respondents help to reveal the direction of the respondents' responses to the question items. The items were measured on a five-point Likert scale of 1 - strongly agree to 5-strongly disagree.

Table 6: Responses on recruitment process

Statement	Mean	Std. deviation
Job Analysis		
my job requires me to learn new things	1.90	1.05
my job requires me to do routine work	1.92	1.08
my job requires creativity	1.84	1.09
my job requires high level of skill	1.93	1.19
my job requires a variety of skills	2.03	.90
I have the required ability to execute my job tasks	2.03	1.15
my job allows me to make decisions independently	2.94	1.28
I have freedom to make decisions	2.45	1.04
I have a lot of say regarding my job	2.47	.95
my job requires me to work fast	2.10	1.12
my job requires me to work hard	2.22	4.15
my workload is not excessive	3.19	1.35
I have sufficient time to do my work	3.95	7.41
there are no conflicting demands in my current job	2.67	1.14
my supervisor is concerned about my work performance	2.04	1.18
my supervisor pays attention to my work tasks	1.86	.85
my work supervisor is supportive	1.89	1.02
my co-workers have the required skills to perform work roles	2.44	3.31
my supervisor is good at organizing work tasks	2.03	.87
my co-workers are interested in supporting me	2.07	.87
my co-workers are friendly	2.03	.80
there is teamwork with my co-workers	1.95	.92
Selection		
this organization selects the right persons for the right job	2.20	1.12
there is a proper procedure of the selection process	2.17	1.04
there is no bias while selecting employees	2.62	.99
the selection process is fair and justifiable	2.53	.980
I am satisfied with the selection process	2.54	1.03
Orientation		
after attending the organisation's induction programme,	1.94	.95
I am aware of the organization's rules and policies	1.79	.84
I know what is required of me to in my job	1.69	.91
I know what my performance standards are	1.7660	.95
I see myself as a member of this organization	1.71	.95
I am pleased to be a member of this organization	1.86	.92

I feel strong ties with other members of the organization	2.19	.97
I identify with other members of the organization	2.10	1.09
I am not looking for another job outside the organization	2.74	1.35
I think about remaining employed in this organization	2.39	1.23
in general I found the induction programme useful	1.76	.84
Valid N (listwise)		

Source: Survey data (2021)

The findings in Table 6 above, indicates that majority of the respondents agreed with the statement that, 'my job requires me to learn new things' mean = 1.90 (SD = 1.05), 'my job requires me to do routine work' mean = 1.92 (SD = 1.08), 'my job requires creativity' mean = 1.84 (SD = 1.09), 'my job requires high level of skill' mean = 1.93 (SD = 1.19), 'my job requires a variety of skills' mean = 2.03 (SD = .90), 'i have the required ability to execute my job tasks' mean = 2.03 (SD = 1.15), 'my job allows me to make decisions independently' mean = 2.94 (SD = 1.28), 'i have freedom to make decisions', mean = 2.45 (SD = 1.04), 'i have a lot of say regarding my job' mean = 2.47 (SD = 1.04), 'my job requires me to work fast' mean = 2.10 (SD = 1.12), 'my job requires me to work hard' mean = 2.22 (SD = 4.15), 'there are no conflicting demands in my current job' mean = 2.67 (SD = 1.14), 'my supervisor is concerned about my work performance' mean = 2.04 (SD = 1.18), 'my supervisor pays attention to my work tasks' mean = 1.86 (SD = .85), 'my work supervisor is supportive' mean = 1.89 (SD = 1.02), 'my co-workers have the required skills to perform work roles' mean = 2.44 (SD = 3.31), 'my supervisor is good at organizing work tasks' mean = 2.03 (SD = .87), 'my co-workers are interested in supporting me' mean = 2.07 (SD = 0.87), 'my co-workers are friendly' mean = 2.03 (SD = 0.80), 'there is teamwork with my co-workers.' mean = 1.95 (SD = 0.92), 'this organization selects the right persons for the right job' mean = 2.20 (SD = 1.12), 'there is a proper procedure of the selection process' mean = 2.17 (SD = 1.04), 'there is no bias while selecting employees' mean = 2.62 (SD = .99), 'the selection process is fair and justifiable' mean = 2.53 (SD = .98), 'I am satisfied with the selection process' mean = 2.54 (SD = 1.03), 'after attending the company's induction programme' mean = 1.94 (SD = .95). However, the respondents were neutral with the statement that 'my workload is not excessive' mean = 3.19 (SD = 1.35). The respondents also disagreed with the statement that 'i have sufficient time to do my work.' mean = 3.95 (SD = 7.41).

Descriptive Statistics for Employee Job performance

Table 7: Descriptive Statistics for employee job performance

Statements	Mean	Std. Deviation
I always do my work on time	2.0319	.94416
my plans are often effective	2.0213	.71810
I am always focused on the intended results while doing my work	1.7766	.76417
I am able to separate main issues from side issues at work	2.0638	2.24714
I am able to perform my work well with minimal efforts	1.7979	.82410
Valid N (listwise)	94	

Source: Survey data (2021)

According to the data in the Table 7 above, the majority of respondents agreed with the statement, "I always complete my assignment on time." 'My plans are frequently

effective' mean = 2.02 (SD =.71), 'I am always focused on the intended results while doing my work' mean = 1.77 (SD =.76), 'I can separate main issues from side issues at work' mean = 2.06 (SD = 2.24), 'I can perform my work well with minimal effort' mean = 1.79 (SD =.82).4.6. Correlation Analysis. To determine the relationship between the study variables, the researchers used correlation analysis. The study looked at the relationship between job analysis, selection, and induction, as well as employee work performance, as the dependent variable. The results show that there is a positive moderate and statistically significant association between job analysis and employee performance (0.67, p-value 0.01), as shown in the table below. These findings suggest that job analysis is linked to employee job performance and that a change in work analysis will result in a change in employee job performance. The findings suggest that conducting a job analysis can help managers improve employee performance. The results also reveal that there is a favorable relationship between staff selection and work performance (0.54, p-value 0.01). As a result, the findings suggest that changes in employee selection are linked to changes in employee job performance. The findings also show that orientation has a favorable and statistically significant relationship with employee job performance (0.66, p-value 0.01). These findings suggest that a shift in employee job performance is linked to a shift in orientation.

Table 8: Correlations for study variables

	Employee performance	Job analysis	selection	orientation
Employee performance	1			
Job analysis	.677**	1		
selection	.545**	.525**	1	
orientation	.662**	.796**	.608**	1

** . Correlation is significant at the 0.01 level (2-tailed).

Source: Survey data (2021)

Hypothesis Testing

Based on the study objectives, the hypothesis test tried to establish a direct impact relationship between the independent and dependent variables. The hypotheses were tested using regression analysis. The purpose of regression analysis was to figure out how much the independent variable explained the dependent variable. The goal of the study was to see how the selection procedure affected employee job performance in the Pallisa District Local Government. Work analysis has no significant effect on employee performance, selection has no significant effect on employee performance, and orientation has no significant effect on employee job performance, according to the hypotheses examined. Linear regression was used to test the direct effect between the study variables.

Regression Analysis for Job Analysis and Employee Job Performance

Table 9. Job analysis and employee job performance

Coefficients					
Model	B. Unstd	Std. Error	Beta. Std	t	Sig
(Constant)	-.180	.474		-.380	.705
gender	.194	.146	.113	1.331	.187
age bracket	.041	.134	.039	.308	.759
Education level	.012	.082	.012	.140	.889

	Tenure	.008	.073	.013	.115	.908
	Job analysis	.694	.079	.700	8.759	.000
Model summary statistics						
R					.686 ^a	
R square					.470	
Adjusted R square					.440	
Standard error of the estimate					.64088	
Change statistics			R square change		.470	
			F change		15.635	
			Sig.		.000	
a. Dependent Variable: employee performance						

Source: Survey data (2021)

The regression analysis shows that (R²=0.47), implying that 47% of variations in employee job performance is explained by the job analysis. The results imply that job analysis moderately predicts employee job analysis. Hypothesis (H01) stated that job analysis has no significant effect on employee job performance. The results in the above table show that job analysis has a positive and significant effect on employee job performance ($\beta=.144$, $p<.05$). These results imply that a unit increase in job analysis causes an increase in employee job performance by 0.14 units. Therefore the results confirm that job analysis has a significant effect on employee job performance.

Regression Analysis for selection and employee job performance

Table 10 Selection and employee job performance

Model Coefficients	B. Unstd	Std. Error	Beta. Std	t	Sig.
1 (Constant)	.068	.552		.123	.902
gender	.094	.164	.055	.574	.567
age bracket	-.046	.151	-.044	-.307	.760
Education level	.140	.094	.144	1.483	.142
Tenure	-.009	.083	-.014	-.104	.917
selection	.626	.099	.582	6.303	.000
Model summary statistics					
R				.563 ^a	
R square				.317	
Adjusted R square				.278	
Standard error of the estimate				.72780	
Change statistics			R square change	.317	
			F change	8.171	
			Sig.	.000	
a. Dependent Variable: employee performance					

Source: Survey data (2021)

The purpose of Hypothesis (H02) was to determine the impact of selection on employee work performance. (R²=0.31), according to the regression analysis. According to the R-square statistics, selection accounts for 31% of a change in employee job performance. The results in the table above reveal that employee work performance is affected by selection ($\beta=.62$, $p.05$). According to these findings, a unit increase in employee selection leads to a 0.31 unit improvement in employee job performance. As a result, the

findings support the hypothesis that there is a link between staff selection and job performance.

Regression analysis for orientation and employee job performance

Table 11 Orientation and employee job performance

Model Coefficients		B. Unstd	Std. Error	Beta	t	Sig.
1	(Constant)	-.368	.497		-.741	.460
	Gender	.163	.148	.095	1.104	.273
	Age bracket	.078	.137	.074	.572	.569
	Education level	.018	.083	.019	.218	.828
	Tenure	.017	.074	.028	.232	.817
	orientation	.834	.099	.685	8.451	.000
Model summary statistics						
R				.673 ^a		
R square				.453		
Adjusted R square				.422		
Standard error of the estimate				.65145		
Change statistics		R square change		.453		
		F change		14.565		
		Sig.		.000		

a. Dependent Variable: employee performance

Source: Survey data (2021)

The purpose of the Hypothesis (H03) was to determine the impact of staff orientation on job performance. (R²=0.45), according to the regression analysis. According to the R-square statistics, orientation accounts for 45 percent of a change in employee work performance. The results in the table above suggest that employee orientation has a considerable impact on job performance (=0.83, p.05). These findings suggest that a unit improvement in employee orientation leads to a 0.83-unit increase in employee job performance. As a result, the findings support the hypothesis that there is a link between employee orientation and work performance. The findings are consistent with those of Nabayinda and Matovu (2020); Fathin, Ningrum, & Abas (2018) Kepha, Mukulu, & Waititu, (2014)), who discovered a link between psychological orientation and employee performance in the Kampala City Council. However, their study focused on psychological orientation, whereas the current study focused on general employee orientation.

Conclusion and Recommendations

The study's overall goal was to determine the impact of the recruitment process on employee job performance. The goal of the study was to determine the impact of job analysis, selection, and orientation on employee performance. The first goal was to determine the impact of job analysis on employee performance. Statistical investigation revealed that job analysis has a considerable impact on employee performance. As a result, it can be argued that job analysis aids in improving employee performance in the Pallisa District Local Government. This demonstrates the need to strengthen the human resource process so that organizational managers do job analyses so that employees and management have clear knowledge about the job, and employees perform and are evaluated

based on the information acquired during job analyses. The second goal was to determine the impact of selection on employee performance. The data show that employee selection has a favorable impact on employee performance, leading to the conclusion that employee selection aids in improving performance. The third particular goal of the research was to determine the impact of employee orientation on employee performance. Employee orientation has a considerable impact on employee performance, according to statistical studies. Therefore it is concluded that employee orientation has a significant effect on employee job performance. The research will aid current managers in developing recruitment policies and practices. From a management point of view, the current study implies that managers should collect data about the job before carrying out human resource decisions like recruitment. Second, Pallisa District LG management should use the authorized selection processes to objectively pick workers with the necessary competencies. From a practical standpoint, the research model might serve as a reminder for practicing managers to comprehend the recruitment criteria and methods. Finally, this research fills a gap in the literature by demonstrating that recruitment procedures have a major impact on performance in Pallisa District LG, and more specifically in Uganda, a developing nation. The study's findings show that the recruitment procedure has an impact on employee performance. Job analysis, selection, and orientation have a good and significant effect on employee performance, according to the data. Based on these findings, the Pallisa District LG administration should do a job analysis before engaging in human resource procedures such as recruiting and selection, and any human resource decisions should be based on the outcomes of the job analysis. This will give employees and management the knowledge they need to do their jobs and make educated decisions about human resource planning. Local government managers in Uganda should also ensure that they follow the public service recruiting procedure and guidelines to ensure that they cover all of the necessary steps in the recruitment process. Employees should be orientated by central magisterial bodies to ensure that they have the requisite abilities to accomplish their jobs. Employee performance will improve as a result of employees being introduced to their coworkers and learning how to do the newly acquired task.

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CONSTITUTIONAL DEMOCRACY AND THE INFLOW OF FOREIGN DIRECT INVESTMENTS: THE NIGERIAN EXPERIENCE

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Adebayo T. SALAMI

Department of Political Science, Olabisi Onabanjo University
Ago-Iwoye, Nigeria

salami.adebayo@oouagoiwoye.edu.ng

ORCID: <https://orcid.org/0000-0002-4160-1721>

Abstract: *Does any relationship in both theory and practice exist between political institutions and economic performance? In other words, do political institutions enhance economic performance in terms of an economy being able to steadily and permanently attract and stimulate foreign direct investments (FDI)? How can the relationship, in the standard version of social science research, be measured and determined? What are the local varieties and peculiarities that tend to condition how political institutions encourage and stimulate foreign direct investments (FDI)? To what extent do the variations and peculiarities impact on the policies and initiatives that are aimed at the attraction and stimulation of FDI? To what extent does the attendant result help in the analysis of the volume and sectoral allocation of FDI? How have the results influenced and impacted the contrasting perspectives in literature? And what will the study of Nigeria add to the debate as it ensues? Relying on data from secondary sources, in particular the Reports of the Central Bank of Nigeria, the Bureau of Statistics and newspapers, the study examines the volume and sectoral allocation of FDI in Nigeria with the return to constitutional democracy between 1999 and 2012. The aim is to discover how the Nigerian environment of democracy can influence the existing debate on the affinity of FDI to democracy. The study finds out that there were influxes of FDI into the Nigerian economy only on paper. The policy implication is therefore that the hope of a greater Nigeria rests on the determination of Nigerians to use its resources to address the fundamental problems of the Nigerian economy rather than deliberately seeking to attract and stimulate FDI.*

Keywords: *Foreign Direct Investments. Constitutional Democracy. Political Economy of Foreign Direct Investments. Sectoral Allocation.*

Introduction

Literature is replete with all kinds of interesting and provocative analyses of the relationship or supposed relationship between democracy and FDI stimulation and attraction. Investigated within the broad framework of the influence of political institutions on economic performance, extant literature present diverge conclusions on the extent to which either democracy or authoritarianism have helped in the attraction or otherwise of FDI. The works of North (1990), North and Weingast (1989), Olson and Limongi (2003), Przeworski, Alvarez, Cheibub and Limongi (2000), Li and Resnick (2003), and Choi (2008), among others, present contrasting perspectives on the affinities of FDI to democracy and authoritarianism. Without debate and argument, the scientific methodologies that have influenced how they arrived at their different conclusions are in themselves subject to criticisms because they were largely influenced by conflicting motives and competing understands of ‘science’. Apart from the inabilities of scholars and

researches to either fully or relatively manage their varied interests and the determining objectively the choice of tool of analysis which the teachings of social research rule enjoin should be kept under serious control, there is also the problem of how well to interpret the emerging data in a way that the purpose of research will be satisfied and scholarship advanced. More worrisome, the survey of either fully democratic or democratizing one hundred and forty countries in the *Polity* data series gives scanty details about peculiarities, circumstances and situational exigencies and hence in the measurement and interpretation of democracy and democratic parameters. Notwithstanding, the fact that there are agreed elements and principles that drive scholars' general understanding of what democracy is, and the principles and elements in turn shaping the marked distinctions between it and authoritarianism, the point can still be made that a thorough understanding of democracy should be situated in the peculiar environment and circumstance of its practice.

Nigeria, without argument, presents a dilemma in the study of the affinities of FDI to either democracy or authoritarianism. No doubt a democracy, the General Elections of 1999, 2003 and 2007 were generally rigged. The 1999 Constitution, the fundamental legal document defining the structure of government, allocation of powers, and the processes and procedures of governmental and political conduct, among others, is dubious in its preamble. It is a product of military rule/authoritarianism. The military background of President Olusegun Obasanjo as the 1999 Constitution first operator affected his approach to governance especially in the implementation of its provisions. The intention of this article is to present and analyze the "Nigerian dilemma", in particular how it helps in the study and analysis of FDI between 1999 and 2012. Section one preoccupies itself with extant definition and operationalization of the basic terms and terminologies that help to give meaning and identity to the article. Not only are the terms defined within the specific contexts that have influenced their formulations, emphasis is as well placed on how the terms help to explain and understand the "Nigerian dilemma". Section two critically examines the problems and issues in the scientific evaluation and measurement of the affinities of FDI to democracy and authoritarianism. Section three presents a detailed analysis of the volume and sectoral allocation of FDI as documented in the Central Bank of Nigeria (CBN) Reports and that of the National Bureau of Statistics. The contained presentation and analysis are divided into two, the periods between 1999 and 2005 and between 2006 and 2012 for easy comprehension. Section four concerns itself with the analyses of the domestic policies and initiatives at attracting and stimulating FDI in Nigeria between 1999 and 2012 and places the domestic efforts and initiatives at stimulating FDI in Nigeria within the context of globalization. Section five provides the conclusion to the article.

Overcoming Conceptual Ambiguities: Contextualizing the Basic terms and Terminologies

What is the study's understanding of the basic terms and terminologies that help to give special meaning to the article? The terms that are special and specific to the article include: Foreign Direct Investments (FDI), Constitutional Democracy (CD), Sectoral Allocation (SA) and Political Economy of FDI (PEF). Two reasons have informed their formulations. First, to underscore the study's focus on what it calls the "Nigerian dilemma"; and second, to provide the necessary intellectual and epistemological

frameworks with which to place the understanding of the Nigerian dilemma within the body of discussions and analyses that are contained in the article. To begin with, FDI is here defined as the summation of all investments imported into Nigeria by individuals, groups and non-governmental organizations. It can further be broken down to include private financial resources/portfolio, grants, aid and donations. While grants are usually given by governments, portfolio investments come in the form of purchase of shares and equities by individuals in their private capacities. Constitutional democracy on the other hand, is used to describe the principles and practices of democracy that are based on the letters and spirits of the constitution. In this type of democracy, the ideas of rule of law, independence of the judiciary, separation of powers, fundamental rights, free press, transparency and accountability, popular participation in decision-making processes, competition for political offices, etc, form the bedrocks of political practices. As the fundamental legal charter, the constitution provides for all of these and more in a manner that any violation is further protected by law. In this type of democracy, the constitution is supreme and the law is not a respecter of anyone, notwithstanding the fact that immunity clause is contained in the 1999 Constitution of Nigeria.

Sectoral allocation as a terminology is used to refer to the various subsystems and subsectors in which an economy is made. An economy is viewed as the arena where the processes of production, distribution and consumption take place. It has its internal boundaries as well as its external environment all interacting together. Influenced by the degree of sophistication and development, over time, an economy acquires different shapes of dependence and interdependence in the international system of economic production, distribution and consumption. Every economy is integrated with the outside world where it relates and receives investments. Finally, the political economy of FDI refers to the political and economic decisions, initiatives, efforts, measures, and policies aimed at stimulating and attracting FDI especially since the attainment of independence in 1960 in Nigeria. The political economy of FDI is therefore the summation of the various domestic legislations and enactments, and bilateral/multi-lateral agreements freely entered into by Nigeria with other countries of the world.

The definitions provided above are not without some problems. It is very difficult, given the dimensions which corruption takes in Nigeria, to describe investments as being totally/completely foreign or international. This is because there is the thinking that the so-called foreign direct investments (FDI) are indeed a re-injection of the stolen wealth and other resources of Nigeria. The fact that the re-injection presents itself in foreign currencies is not sufficient to describe them as FDI in real terms. Constitutional democracy is again limited by the practice of politics in Nigeria. While political parties are important and serve as one of the pre-conditions for full-blown constitutional democracy in both theory and practice, political parties in Nigeria however change their names and identities without any consideration for cherished principles and ideologies, cherished principles and ideologies which ever define and give meaning to what political parties are. The All Progressives Congress (APC), for instance at different times called itself, the All Nigerian Peoples Party (ANPP), the Congress of Progressive Change (CPC), the Action Congress (AC), and the Action Congress of Nigeria (ACN). The change of nomenclature makes the ruling party then, the People's Democratic Party (PDP), to appear dominant and very strong to the extent of rubbishing the principles and tenets of constitutional democracy. The political economy of FDI is again limited by the amount of political will at the disposal of the

President between 1999 and 2012. The fluidity of the economy of Nigeria hampers any strong analytical categorization of the sectors. Banking, Finance, and Insurance sectors, depending on prevailing circumstances, dissolve so easily to the extent that they can all be presented and described as Financial Services Sector. The telecommunication sector can, again depending on the circumstance, especially going by events in the stock exchange, collapse into the financial services sector and hence be so classified and described.

The Affinities of FDI to Democracy and Authoritarianism: Problems and Issues in Scientific Evaluation and Measurement

Whether or not FDI responds positively to democracy or authoritarianism raises fundamental issues of consequences in social science research epistemology. These issues and problems require extensive discussion and analysis. We need to admit the inherent weaknesses of social science vis-à-vis the physical science. Man's behaviour, it is important to emphasise cannot be completely controlled for the purpose of being able to develop generalisation. Investors are human beings with busy schedules of duties and responsibilities that do likely impact on their responses to efforts and attempts at ascertaining the volume of their capital importation into any economy by either not filling or returning requisite forms to relevant agencies of government as at when due. This particularly explains, especially in the developing world characterised by administrative lapses and inefficiencies, why figures on the volume and sectoral allocation of FDI are lacking in some months of the year and further affecting the aggregate or total figure at the end of the year of study. Lack of administrative coordination coupled with lack of requisite skills and techniques of information and data gathering, storage and organised and planned retrieval system, etc., jointly affect the organisation and presentation of data on FDI in the developing world.

Accepted further that questionnaire design and administration are critical to scientific methods of data collection, the type of questions that are asked, how they are arranged, the mood informing how they are framed and the objectivity in which the whole idea is expressed, etc., jointly and individually shape and reshape our understanding of science and the extent to which scientific exercises are conducted and rated by social scientists. What question to ask with respect to the calculation of FDI volume especially in relation to the host economies is fundamentally dependent on exchange rate which, given the dependent nature of the economies of the Third World, is permanently unfixed and to the detriment of their economic activities and wellbeing. Measuring the volume of FDI has its inherent problems especially when placed within the aforementioned problems. Foreign aid, a component of FDI, has its many problems of measurement especially determining appropriately its volume. Some components of aid, especially training and technical assistance are difficult to quantify and measure in the local currency. The cost and by extension the volume of training and technical assistance are as pronounced by the donor countries and accepted as announced.

Related to the above is as well the problem of ascertaining accurately the affinities of FDI to democracy or authoritarianism. Accepted that what was to be measured are the concepts of democracy and authoritarianism, problems and issues exist and arise as indices are being formulated for the purpose and more fundamental, how to make the indices scientific to the extent of developing and formulating objective criteria for their

measurement and evaluation. In literature, there still exists, for instance, divergent views and understanding on what democracy is even within the popular liberal perspective. Independence of judiciary, fundamental rights and freedoms, free and fair elections, political parties and interest groups, independent and free press, etc., are preconditions for political competition in democracies. However, the preconditions vary in terms of the extent to which democracies are indeed democratic. How, it is now being asked, can the volume of FDI be depicted arising from the degrees of political plurality and political competition and economic liberalisation and deregulation inherent in the host countries and economies? With particular reference to the focus of study, Nigeria, how can the inflow of FDI be depicted as having relationship with constitutional democracy between 1999 and 2012? This is no doubt a difficult question to provide answer to. What needs be appreciated notwithstanding the fact that the Nigerian democracy is with its teething problems and issues is the fact that some initiatives and efforts were introduced and implemented between 1999 and 2012.

The initiatives and efforts, among others, included the acceptance of the constitution (the 1999 Constitution- as amended) as the fundamental legal charter of the country determining everything about powers and its allocation between and among the organs of government and between and among the federating units. The courts, compared with the authoritarian periods before May 29, 1999, exercised (and still continue to exercise) their powers freely and independently without ouster clauses supported by the legislation of Decrees by military fiats. Administrative institutions such as the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Investigation Commission (ICPC) were also parts of the efforts and initiatives meant to sanitize the Nigerian political system through the enhancement of accountability and transparency. Reforms within the larger bureaucratic operations were equally executed and implemented to, among others, ensure efficiency and effectiveness and commitment to standards and international best practices. All of these no doubt helped in the reshaping of Nigeria's image from the pariah of the General Sanni Abacha era to one imbued with the hope of democracy by the global community especially international investors.

Critical to the examination, discussion and analysis of the affinities of FDI to democracy and authoritarianism is the availability of data. Nigeria is a developing world characterized by poor relevant statistics. This impacts negatively on data on the volume and sectoral allocation of FDI. Accepted that there are institutions and agencies (such as the Central Bank of Nigeria, the National Bureau of Statistics, etc.) enacted by law and publicly founded to, among others, make available relevant statistics and data on FDI, they are however not up to the above mentioned responsibility/task. The point explains the decision to limit the study period to 2012, being the year of available data by the National Bureau of Statistics (NBS).

Analyses of the Volume and Sectoral Allocation of FDI in Nigeria, 1999-2012

The subsection of the article critically examines the volume and sectoral allocation of FDI in Nigeria between 1999 and 2012, the focus of the study. The presentation and analysis are hence accomplished in three parts. Part one examines the period between 1999 and 2005 based on the Reports of the Central Bank of Nigeria (CBN), while part two focuses on the period between 2006 and 2009. Part three examines and analyses the volume

of FDI in Nigeria in 2012 and on monthly basis as presented by the National Bureau of Statistics of Nigeria. The volume and sectoral allocation of FDI in Nigeria during this period (between 2005/2006 and 2009) are extrapolated from diverse newspaper sources and subsequently neatly arranged.

As shown in the table below, table one, in 1998, inflow from United Kingdom amounts to over ₦18 billion, while the corresponding outflow is over ₦3.9 billion with a net flow ₦14.1 billion. By 1999, this has declined to ₦1.2 billion and further to ₦191.2 million in 2000. It however, increases to over ₦2.6 billion in 2001, ₦4 billion in 2002 and further to ₦6 billion in 2003. Inflow from the United States which is as low as ₦255.0 million in 1999 rises suddenly to over ₦14.1 billion in 2000, only to fall drastically to ₦285.0 million in 2001. It increases to over ₦2.1 billion in 2002 and to over 3.2 billion in 2003. It is interesting to note that as the inflow is over ₦14.1 billion in 2000 its corresponding outflow is over ₦12.2 billion with a net of just over ₦1.8 billion. In the case of Western Europe inflow declines consistently from the initial ₦2.331 billion in 1998 to ₦1.463 billion in 1999, further to ₦1.418 billion in 2000 until it reaches a bottom level of ₦861 million in 2001 before rising to ₦1.429 billion in 2002 and ₦2.211 billion in 2003. Inflow from others declines drastically from the over ₦11.3 billion in 1998 to ₦1.064 billion in 1999 and further to ₦739.8 million in 2000. It however, picks up in 2001 when it rises to ₦1.11 billion, and further to ₦1.380 billion in 2002, before again falling to ₦1.011 billion in 2003. In aggregate terms, inflow in 1998 is over ₦32 billion. This however, declines to ₦44.0 billion in 1999, the commencement date of the return to civil rule. In 2000, aggregate inflow is over ₦16.4 billion which declines to over ₦4.9 billion in 2001, only to increase to over ₦8.9 billion in 2001, and to over ₦13.5 billion in 2003. Aggregate outflow in 2000 is ₦13.1 billion, and declines consistently until it reaches a bottom level of ₦75.1 million in 2003. Inflow from United Kingdom twice increases from ₦6.0 billion in 2003 to ₦7.2 billion in 2004 and further to ₦9.3 billion in 2005. For United States, outflow increases from ₦3.02 billion in 2004 to ₦3.93 billion in 2005.

Table 1 Flow of foreign private capital by origin (1998-2005) (₦' million)

Year	United Kingdom			United States of America		
	Inflow (1)	Outflow (2)	Net flow (1-2) = (3)	Inflow (4)	Outflow (5)	Net flow (4-5) = (6)
1998	18,048.	3,901.1	14,146.4	747.0	1,615.4	-868.4
1999	1,251.8	16.2	1,235.6	255.0	1,744.4	-1,489.4
2000	191.2	15.4	175.8	14,103.7	12,248.1	1,855.6
2001	2,680.0	5.0	2,675.0	255.0	775.0	-191.0
2002	4,029.6	2.3	4,027.0	2,148.9	386.9	1,762.0
2003	6,050.0	5.0	6,055.5	3,223.3	304.7	2,918.6
2004	7,227.1	19.9	7,207.2	3,023.2	36.2	2,987.0
2005	9,395.2	25.9	9,269.4	3,930.2	47.1	3,883.1

Source: CBN (2005), Statistical Bulletin, Vol. 16, December

Table 1 Cont'd (₦' million)

Year	Western Europe			Others		
	Inflow (7)	Outflow (8)	Net flow (7-8) = (9)	Inflow (10)	Outflow (11)	Net flow (10-11) = (12)

1998	2,331.8	184.7	2,147.1	11,307.4	2,653.6	8,653.8
1999	1,463.8	202.8	1,261	1,064.9	293.0	771.9
2000	1,418.9	511.2	907.1	739.8	331.9	407.9
2001	861.0	120.0	741.0	1,111.0	659.0	452.0
2002	1,429.6	129.3	1,300.3	1,380.4	263.2	1,117.2
2003	2,211.8	50.6	2,161.2	2,045.6	114.8	1,930.8
2004	3,115.0	49.9	3,065.1	6,699.1	49.7	6,649.4
2005	4,049.5	64.9	3,984.6	8,708.8	64.6	8,644.2

Source: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 1 Cont'd Flow of foreign private capital by origin (₦' million)

Year	Total		
	Inflow	Outflow	Net flow
1998	11,307.4	2,653.6	8,653.8
1999	1,064.9	293.0	771.9
2000	739.8	331.9	407.9
2001	1,111.0	659.0	452.0
2002	1,380.4	263.2	1,117.2
2003	2,045.6	114.8	1,930.8
2004	6,699.1	49.7	6,649.4
2005	8,708.8	64.6	8,644.2

Source: CBN (2005), Statistical Bulletin, Vol. 16, December.

In table Two below, unremitted profit from the United Kingdom is over ₦43.4 billion in 1998, declining to as low as ₦157.0 million in 2000. It however, increases consistently from the initial ₦2.4 billion in 2001 to over ₦3.7 billion in 2002, and further to over ₦5.5 billion in 2003. For the United States, unremitted profit is ₦0.0 in 2000, and from there it increases marginally until it reaches ₦253.0 million in 2003. For Western Europe, unremitted profit maintains a double loop; from the ₦274.3 million in 1998 to average of over ₦800 million in both 1999 and 2000, before falling to ₦464.0 million in 2001 only to rise marginally to ₦641.3 million in 2002, and much later to over ₦1.04 billion in 2003. Change in foreign share capital (net), declines consistently from ₦4.3 billion 1998 to ₦53.4 million in 2001. It however, increases to ₦776.5 million in 2002, and much later to over ₦1.2 billion in 2003. Out of the total amount of over ₦4.3 billion in 1998, United Kingdom has over ₦1.1 billion, with the United States having over ₦500,000,000 and Western Europe with over ₦112.4 million. The trade and suppliers' credit (net) from the United Kingdom is ₦2.928 billion in 1998, and for United States, it is ₦172.5 million in the same year. Western Europe dominates in 1998. It has over ₦1.7 billion, while others have over ₦1 million. Other foreign liabilities (net) are almost negative throughout. From the over ₦24 million in 1998, trade and supplier's credit decline (with the exception of year 2000) negatively in 1999, 2001, 2002 and 2003 in the case of the United Kingdom. For the United States, it depicts a similar pattern especially between 1998, 1999, 2000 and 2001. Western Europe stands out distinctly. From the small amount of ₦28.2 million in 1998 it increases consistently before dropping to ₦61.7 million in 2002 and to ₦211.8 million in 2003. Liabilities to head office (net) for the United Kingdom in 1998 is over ₦12.3 billion and declines abruptly until it rises to over ₦8 million in 2003. For the United States, with the exceptions of 2002 and 2003 when it records over ₦703 million and over ₦1.2 billion respectively, other periods: 1998, 1999 and 2000 are

negative. In aggregate, the United Kingdom leads and followed by others, Western Europe and the United States. The components of net capital flow by origin indicate that unremitted profit from the United Kingdom increases consistently from 5.96 billion in 2004 and further to ₦7.74 billion in 2005. Unremitted profit from the United States increases marginally from ₦253.0 million in 2003 to ₦263.9 million in 2004 and to a quite significant level of ₦343.1 million in 2005.

Table 2 Components of Net Capital Flow by Origin, 1998-2005 (₦' Million)

Year	Unremitted Profit				
	United Kingdom	U.S.A	Western Europe	Others	Total
1998	3,480.0	569.3	274.3	5,148.2	9,471.8
1999	1,159.6	38.3	885.7	636.1	2,719.7
2000	157.0	0.0	820.4	315.8	1,293.0
2001	2,486.	98.0	464.0	863.4	3,911.4
2002	3,729.0	163.0	641.3	1,265.4	5,798.7
2003	5,594.0	253.0	1,045.7	1,806.6	8,699.3
2004	5,960.0	263.9	1,090.0	5,903.5	13,217.4
2005	7,748.0	343.1	1,417.0	7,674.6	17,182.6

Source: CBN (2005), Statistical Bulletin, Vol. 16, December

Table 2 Cont'd (₦' Million)

Year	Changes in Foreign Share Capital (Net)				
	United Kingdom	U.S.A	Western Europe	Others	Total
1998	1,106.1	5.1	112.4	3,161.7	4,385.4
1999	66.2	0.0	39.4	272.2	377.8
2000	18.8	0.0	0.0	125.1	143.9
2001	176.0	0.0	39.0	-268.4	-53.4
2002	266.5	0.0	586.7	-76.7	776.5
2003	394.0	0.0	843.4	28.7	1,266.1
2004	434.6	36.7	1,677.8	335.3	2,504.4
2005	565.0	47.7	2,181.1	461.9	3,255.7

Source: CBN (2005), Statistical Bulletin, Vol. 16, December

Table 2 Cont'd (₦' Million)

Year	Trades and Suppliers Credit (Net)				
	United Kingdom	U.S.A	Western Europe	Others	Total
1998	-2,928.3	172.5	1,768.0	1.3	-986.5
1999	11.4	-135.3	105.1	-57.4	-76.2
2000	0.1	14,103.0	-5.5	255.6	14,353.9
2001	13.0	-134.0	-4.1	-99.0	-224.1
2002	32.5	873.6	11.0	14.7	902.4
2003	48.8	1,350.7	46.0	16.0	1,461.5
2004	51.5	1,204.7	46.6	23.9	1,326.7
2005	67.0	1,566.1	60.6	31.1	1,724.7

Source: CBN (2005), Statistical Bulletin, Vol. 16, December

Table 2 Cont'd (₦' Million)

Year	Liabilities to Head Office (Net)				
	United Kingdom	U.S.A	Western Europe	Others	Total
1998	12,396.0	-1,512.6	-3.4	342.4	11,189.9
1999	-	-904.0	-19.0	-10.3	-119.7

2000	-	-	-175.9	-100.5	-276.4
2001	0.2	-90.3	-19.0	-9.2	-118.3
2002	0.7	703.0	0.4	-3.0	701.2
2003	8.0	1,206.3	14.9	-4.0	1,233.2
2004	66.3	1,369.0	5.5	267.2	2,308.0
2005	866.2	1,779.7	7.2	347.4	3,000.4

Source: CBN (2005), Statistical Bulletin, Vol. 16, December

Table 2 Cont'd (₦' Million)

Year	Other Foreign Liabilities				
	United Kingdom	U.S.A	Western Europe	Others	Total
1998	24.3	-102.8	28.2	0.2	-50.1
1999	-1.6	-13,302.1	249.9	-68.7	-13,122.5
2000	0.1	-12,248.1	268.7	-3.5	-11,982.8
2001	-1.5	-363.7	259.0	-35.6	-142.0
2002	-0.8	20.7	61.7	-54.9	26.7
2003	-0.8	1084	211.8	75.4	396.4
2004	94.2	112.3	245.1	101.0	552.6
2005	122.5	146.0	318.6	131.3	718.4

Source: CBN (2005), Statistical Bulletin, Vol. 16, December

Table 2 Cont'd (₦' Million)

Year	Total				
	United Kingdom	U.S.A	Western Europe	Others	Total
1998	14,146.4	-868.4	2,147.0	6,653.8	24,078.8
1999	1,235.6	-1,469.5	1,261.0	771.9	1,779.1
2000	175.8	1,885.6	907.7	400.9	3,347.0
2001	2,673.7	-490.0	738.9	451.0	3,377.0
2002	4,027.9	-1,761.2	1,300.3	1,116.1	8,205.5
2003	6,045.6	2,918.4	2,161.0	1,930.7	13,056.5
2004	7,206.6	2,986.6	3,065.0	6,650.9	19,909.1
2005	9,368.6	3,882.6	3,984.5	8,646.2	25,881.8

Source: CBN (2005), Statistical Bulletin, Vol. 16, December

In Table three below, the aggregate paid-up capital plus reserves and other liabilities for the United Kingdom increase consistently between 1998 and 2003, from the initial ₦31.36 billion to ₦37.73 billion and from 20.6 percent to 21.6 percent. The total cumulative from Western Europe is almost three times of the United Kingdom yearly i.e. between 1998 and 2003. From the over ₦82 billion in 1998, total cumulative increases gradually to over ₦88 billion in 2003 and maintains more than half of the 50percent average between 1998 and 2003. For the United States of America, it as well increases gradually and consistently between 1998 and 2003 only that there is a repeated performance of the paid-up capital plus reserves in both 1999 and 2000. The total cumulative for the United States is over ₦21.0 billion in 1998, falls unnoticed to ₦20.0 billion in 1999, and rises immediately until it reaches over ₦25.3 billion in 2003. Total cumulative investment from the countries in the category of others follow similar pattern. It increases from the over ₦17 billion in 1998 through over ₦21.8 billion in 2002 to over ₦23.0 billion in 2003. The grand total cumulative reaches over ₦178 billion in 2003. Cumulative investments from the United Kingdom decreases remarkably from the peak of ₦33.4 billion in 2004 to ₦4.1 billion in 2005.

Table 3 Cumulative Foreign Private Investment by Origin, 1998-2005 (₦' Million)

Year	United Kingdom			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	16,728.5	14,639.4	31,367.9	20.6
1999	17,945.3	14,649.4	32,603.5	21.1
2000	18,130.1	14,649.2	32,779.3	20.8
2001	20,792.1	14,660.2	35,452.3	22.0
2002	22,168.0	14,673.4	36,841.4	22.1
2003	27,037.6	14,728.0	37,737.9	21.6
2004	33,432.2	15,539.9	48,972.1	19.7
2005	4,174.5	16,473.0	58,218.2	21.6

Sources: CBN (2003), *Statistical Bulletin*, Vol. 14, December. CBN (2005), *Statistical Bulletin*, Vol. 16, December.

Table 3 Cont'd (₦' Million)

Year	United States of America			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	9,071.9	12,501.7	21,573.6	14.2
1999	9,110.2	10,973.9	20,084.1	13.0
2000	9,110.2	12,829.4	21,939.6	13.9
2001	9,208.2	13,418.4	22,626.6	14.1
2002	9,328.2	3,118.7	22,446.9	13.5
2003	9,578.3	15,786.5	25,364.8	14.5
2004	9,878.9	18,472.0	28,350.9	11.4
2005	10,269.7	21,817.8	32,087.5	11.9

Sources: CBN (2003), *Statistical Bulletin*, Vol. 14, December. CBN (2005), *Statistical Bulletin*, Vol. 16, December.

Table 3 Cont'd (₦' Million)

Year	Western Europe			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	31,174.5	51,122.8	82,279.2	54.0
1999	32,099.6	51,458.7	83,558.3	54.2
2000	32,920.0	51,546.1	84,466.1	53.6
2001	33,421.0	51,754.1	86,175.1	52.9
2002	34,172.5	52,159.1	86,324.4	51.8
2003	36,102.5	52,185.4	88,287.9	50.6
2004	38,869.5	52,482.7	91,352.2	36.7
2005	42,467.6	52,550.4	95,018.1	35.2

Sources: CBN (2003), *Statistical Bulletin*, Vol. 14, December. CBN (2005), *Statistical Bulletin*, Vol. 16, December.

Table 3 Cont'd (₦' Million)

Year	Others			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	13,482.3	388.0	17,171.8	11.3
1999	14,390.6	3,552.1	17,942.7	11.6
2000	14,831.3	3,519.1	18,350.4	11.7
2001	15,426.3	3,663.1	19,069.4	11.9
2002	16,393.3	4,625.6	21,818.9	12.6
2003	18,331.7	4,728.0	23,059.7	12.6

2004	68,295.5	12,249.9	80,545.4	32.4
2005	71,892.6	12,628.3	84,520.9	31.3

Sources: CBN (2003), *Statistical Bulletin, Vol. 14, December*. CBN (2005), *Statistical Bulletin, Vol. 16, December*.

Table 3 Cont'd (₦' Million)

Year	Others			Percentage Distribution of Total
	Grand Total Paid-up Capital plus Reserves	Other Liabilities	Total	
1998	70,457.2	81,952.4	152,409.6	100
1999	73,554.7	80,633.9	154,188.6	100
2000	74,991.6	82,543.8	157,535.4	100
2001	78,847.6	83,495.8	162,343.4	100
2002	82,062.0	84,569.6	166,031.6	100
2003	150,476.1	98,744.5	249,220.6	100
2004	166,375.1	103,469.6	269,844.7	100

Sources: CBN (2003), *Statistical Bulletin, Vol. 14, December*. CBN (2005), *Statistical Bulletin, Vol. 16, December*.

As shown in Table Four below, total cumulative investment in the mining and quarrying sector increase from the over ₦59.9 billion in 1998 to over ₦61.8 billion in 2003. In comparative terms, it ranks higher than the total cumulative in manufacturing and processing within the same year of comparison. The total cumulative in agriculture, forestry and fisheries is the same throughout the years of study and analysis. It reads the same ₦1.209 billion in the years, 1998, 1999, 2000, 2001, 2002, and 2003. This is far much over than the cumulative in the manufacturing and processing sector. It however, differs markedly from that of transport and communication. Between 1998 and 2003, the total cumulative in the transport and communication sector increases remarkably. From the initial ₦689.2 million in 1998 through ₦955.3 million in 2001, it increases to over ₦1.7 billion in 2002 and to over ₦2.8 billion in 2003. Total cumulative investment in the building and construction industry increases consistently as well. From the 1998 figure of over ₦143.8 billion, it increases to both ₦4.293 billion and ₦4.545 billion in 2003 with a percentage distribution ranging between 2.6 and 2.5 during period. Finally, total cumulative investment in the miscellaneous services increases between the over ₦41 billion in 1998 to over ₦49 billion 2003. Apart from a decline in percentage of 26.8% suffered in 2000, the percentage increases from 27.1% in 2001 to 27.5% in 2003. The paid-up capital and reserves in the Mining and Quarrying sector of the Nigerian economy, increases marginally from ₦1.4 billion in 2003 to ₦1.6 billion in 2004 and further to ₦2.1 billion in 2005. The total of paid-up capital and reserves and other liabilities in Agriculture, forestry and Fisheries stagnated in the periods between 1998 and 2005 at ₦1.20 billion.

Table 4 Cumulative Foreign Private Investment Analyzed by Type of Activity, 1998-2005 (₦' Mill.)

Year	Mining and Quarrying			Percentage Distribution of Total
	Paid-up Capital plus Reserves	Other Liabilities	Total	
1998	1,387.4	58,583.1	59,970.5	39.3
1999	1,408.6	57,446.8	58,855.4	38.2
2000	1,408.6	59,302.3	60,710.9	38.5
2001	1,429.6	60,182.3	61,611.9	38.3
2002	1,429.6	60,182.3	61,611.9	37.0
2003	1,477.2	60,331.9	61,809.1	34.6

2004	1,646.5	60,499.2	62,499.2	24.9
2005	2,140.5	78,649.0	80,789.4	24.8

Sources: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 4 Cont'd (₦' Million)

Year	Agriculture, Forestry and Fisheries			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	345.4	863.6	1,209.0	0.8
1999	345.4	863.6	1,209.0	0.8
2000	345.4	863.6	1,209.0	0.8
2001	345.4	863.6	1,209.0	0.8
2002	345.4	863.6	1,209.0	0.7
2003	345.4	863.6	1,209.0	0.7
2004	345.4	863.6	1,209.0	0.5
2005	345.4	863.6	1,209.0	0.5

Sources: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 4 Cont'd (₦' Million)

Year	Transport and Communication			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	302.4	386.8	689.2	0.5
1999	320.4	499.9	820.3	0.5
2000	320.4	499.9	820.3	0.5
2001	342.4	612.9	955.3	0.6
2002	890.4	845.9	1,736.3	1.0
2003	1,749.9	1,140.6	2,890.5	1.6
2004	2,707.6	1,573.5	4,281.1	1.7
2005	3,519.9	2,045.6	5,565.4	1.7

Sources: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 4 Cont'd (₦' Million)

Year	Building and Construction			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	302.4	386.8	689.2	0.5
1999	3,905.1	90.8	3,995.9	2.6
2000	3,905.1	90.8	3,995.9	2.6
2001	3,985.1	226.8	4,211.9	2.6
2002	4,067.1	226.8	4,293.1	2.6
2003	4,249.7	296.1	4,545.8	2.5
2004	4,445.6	718.5	5,194.1	2.1
2005	5,779.3	934.1	6,713.3	2.1

Sources: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 4 Cont'd (₦' Million)

Year	Trading and Business Services			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	10,531.0	-70.5	10,460.5	6.9
1999	11,324.3	-397.0	10,927.3	7.1
2000	11,598.3	-397.0	11,201.3	7.1
2001	11,991.3	25.0	12,016.3	7.5
2002	12,581.3	-264.0	12,317.3	7.4
2003	13,463.6	993.71	14,457.3	8.1

2004	18,204.2	2,038.2	20,242.4	8.1
2005	23,665.5	2,649.7	26,315.1	8.1

Sources: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 4 Cont'd (₦' Million)

Year	Miscellaneous Services			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	266.5	19,056.2	41,689.5	27.4
1999	266.5	18,890.0	42,100.4	27.3
2000	266.5	18,956.2	42,237.6	26.8
2001	24,575.4	19,082.2	43,657.6	27.1
2002	26,486.4	19,023.2	45,509.6	27.3
2003	28,872.3	20,184.2	49,056.5	27.5

Sources: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 4 Cont'd (₦' Million)

Year	Total			
	Paid-up Capital plus Reserves	Other Liabilities	Total	Percentage Distribution of Total
1998	70,457.8	81,953.1	152,410.9	100
1999	73,555.7	80,634.7	154,190.4	100
2000	74,992.2	82,544.6	157,536.8	100
2001	76,428.7	84,463.6	160,892.2	100
2002	82,062.0	84,569.6	166,631.6	100
2003	91,826.5	86,652.1	178,478.6	100
2004	157,865.6	91,355.0	249,220.6	100
2005	206,699.2	118,957.5	324,656.7	100

Sources: CBN (2005), Statistical Bulletin, Vol. 16, December.

Table 5 The Volume of FDI in Nigeria, 2005- 2009 (₦' Million)

Year	Transport and Communication				Source of Information	Total Yearly Volume of Investment	Category of FDI
	Quantum of Investment	Nature of Companies and Countries of Origin	Sector of the Nigerian Investment Economy	Month of Report			
2009	\$100m	Frontier Markets Fund/United Kingdom	Infrastructure: Energy and Port Development	April	The Nation (7/4/09 p.20)		Official Development Assistance
	\$5bn	Amega Microfinance Bank/South Africa	Banking & Finance	September	The Guardian(1/9/09 p.19)		Foreign Private Investment
	\$2.5bn	Gazprom/Russia	Oil & Gas	July	The Nation (6/7/09 p.19)		Foreign Private Investment
	\$16bn	China National Offshore Oil	Oil & Gas	October	The Nation (2/10/09 p.19)		Foreign Private Investment

		Corporation China					
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Sources: Compiled by the Author

Table 6 The Volume of FDI in Nigeria, 2012 (₦' Million)

Time/Units	China	United Kingdom	United States	Germany	Canada
January 2012	7,656,231.170	122,895,887.900	80,630,689.320	-	350.00
February 2012	3,886,584.700	1,397,260,922.000	149,688,111.800	2,644,866.070	5,075.00
March 2012	7,225,871.440	896,007,725.500	180,037,288.800	845,217.830	-
April 2012	2,805,878.020	1,063,738,345.00	105,470,766.100	5,000,000.000	-
May 2012	3,551,925.400	536,462,985.900	326,220,676.800	-	
June 2012	2,357,216.000	131,353,495.500	74,419,028.290	495,400.000	
July 2012	1,084,356.000	586,203,016.200	59,621,893.920	4,648,946.100	
August 2012	5,000,000.000	1,442,735,356.000	-	1,883,992.880	163,721.520

Source: National Bureau of Statistics, Nigeria. <http://nigeria.opendataforafrica.org>

Table 6 (Cont'd) The Volume of FDI in Nigeria, 2012 (₦' Million)

Time/Units	France	Japan	Spain	United Arab Emirates	Italy
January 2012	14,921.000	-	64,210.000	-	-
February 2012	7,712.400	-	-	2,747,713.000	-
March 2012	-	16,408.000	-	576,987.700	-
April 2012	6,947,653.520	-	-	5,399,914.00	-
May 2012	5,818,411.960	-	63,900.000	6,087,762.230	36,887.830
June 2012	4,586,177.970	-	-	2,036,905.000	-
July 2012	12,365,312.040	-	60,525.000	999,945.000	1,312,975.000
August 2012	-	449,844.00	-	-	-

Source: National Bureau of Statistics, Nigeria. <http://nigeria.opendataforafrica.org>

The figure of 2012 by the National Bureau of Statistics here relied upon presented the volume of FDI for the months of January to August leaving uncovered the months of September to December. It however, added the volume of FDI from France, Japan, Spain, Italy and United Arab Emirates. Proving the indication that FDI in Nigeria is now diversified from the original traditional sources. From Table Six, Chinese investment was at its peak of over \$7.65million in January and fell abruptly to \$3.88million in February and only to rise abruptly to \$7.22million in March, 2012. For the United Kingdom, it rose from the over \$122.8million in January to over \$1.39billion in February, and fell to \$896.0million and further reached \$1.0billion and \$1.4billion in April and August. The volume of investments from the United States and Germany are lower than that of the United Kingdom indicating that the latter still dominates the volume of inflow into Nigeria. With a paltry of \$80.6million in January, FDI inflow from the United States increased

significantly to \$149.68million and \$180.03million in February and March and dropping to \$59.62million in July, 2012.

Investment from Germany was at its highest of \$5million in April, falling to \$4.64million in July, and \$1.88million in August. For France, it decreased from \$14.92million in January to \$7.7million in February. It again decreased consistently from \$6.94billion to \$5.81billion and \$4.58billion in April, May and June, only to again increase to \$12.36billion in July, 2012. Investments from Japan increased from \$16.40million in March to \$4.49billion in August. Inflow from the United Arab Emirates at first fell to \$576.98million from \$2.74billion in March, increased to \$5.39billion and \$6.08billion in April and May, and further fell abruptly to \$2.08billion and \$999.94million in June and July. Spain and Italy as well contributed to FDI inflow to Nigeria though marginally. From \$64.21million in January, the Spanish inflow declined to \$63.50million and \$60.52million in July. Finally, inflow from Italy increased from \$36.88million to \$1.31billion in May and July.

The Volume and Sectoral Allocation of FDI in Nigeria within the context of Globalization, 1999-2012

What were/and still are the foreign policy initiatives within the context of globalization that were (and still are) meant to stimulate and attract FDI in Nigeria with the return of democratic rule in 1999? The answer to question requires an ex-ray and review of Nigeria's activities within international system between 1999 and 2012. It further requires the concrete specification and analysis of these initiatives within each level of the international system. And the levels here chosen include: (1) the United Nations System, (2) the African/Continental System, (3) the Commonwealth Organization, (4) the Multi-lateral Organizations, and (5) Bilateral relations. Nigeria, under the General Sani Abacha administration, was, on the face value, totally annihilated from the global system of relations that followed the collapse of the then Union of Soviet Socialist Republic (USSR) and other events in the Eastern bloc with the imposition of sanctions which were thought to be effective theoretically, but which he ably "fenced off".

The return to civil democratic rule on 29th May, 1999 again marked the beginning of Nigeria's reintegration into the world system, especially the world system of capitalism. Even though the Structural Adjustment Programme of the General Babangida administration was officially terminated, the web of the international capitalist system in which Nigeria has been since the imposition of alien, colonial rule, continued, notwithstanding the attainment of flag political independence in 1960. Not only is Nigeria now fully readmitted into the Commonwealth of Nations, she has since May 1999 continued to perform critical roles in international and world affairs. At the 54th Session of the United Nations General Assembly in September, 1999, about five months into the first year of the Chief Olusegun Obasanjo administration, Chief Obasanjo declared that: "My government hasintroduced measures to revitalize the economy in order to create an enabling environment to encourage investment. It has put in place a functional and favourable legal framework to protect foreign investors and their ability to repatriate their profit. Other measure put in place include a vigorous anti-corruption campaign, the promotion of public accountability, and the abolition of decrees and regulations which had hindered inflows of foreign investment as well as the generation of opportunities for

employment and income savings for domestic investment: (Ibid:36). Six years later, precisely in September, 2005 at the 60th session of the United Nations Assembly, Chief Olusegun Obasanjo still observed that: “We remain committed to providing the necessary conducive environment that will encourage investment and generate wealth and liberate our peoples from poverty”.

Recognizing the limited flow of FDI into Nigeria from African countries, Chief Olusegun Obasanjo, at the Conference on Security, Stability, Development and Cooperation in Africa, held in Abuja on 28th August, 1999, observed that : “Africa is on its own let there be no doubt. And let us take the necessary action to help ourselves” (Ibid: 83). While failing to mention how African countries can help themselves in stimulating FDI, the allusion by him that a link exists between “security, stability, development and cooperation” can be extended further to mean that Chief Olusegun Obasanjo was canvassing the need for peace as the basis with which Inter-African cooperation for investment and development can be promoted since it is only Africans, according to him, can help themselves. Chief Obasanjo idea of peace for the purpose of development in Africa is that which should allow for the right of expression. In Arusha, Tanzania in March, 2000 while delivering a speech to mark the occasion of Burundi Peace Negotiation, Chief Olusegun Obasanjo remarked that: “... there is bound to be differences as to the goals and objective of building a nation. These differences have to be given expression”. (Ibid: 87). This point underscores the need for tolerance in the atmosphere of politics, and in the creation of the necessary “political climate” for FDI attraction and stimulation in Africa.

In a similar development, and on the occasion of the 25th Anniversary Summit of the Economic Community of West African States (ECOWAS) in Abuja, in May, 2000, Chief Olusegun Obasanjo, in recognition of the fact that private individuals and groups play much more recognizable role in the movement of capital across the frontiers of the world, boldly remarked that: “We must involve the Private Sector more in the integration process in recognition of the strategic role envisaged for that sector as the engine of growth and driving force of our economies”. (Ibid: 93). For this reason, he continues: “We will therefore continue to initiate programmes which can enhance cooperation and integration among ourselves. We will continue to mobilize more resources and further liberalize our market our markets to enable other ECOWAS member countries take full advantage of its size to promote their exports”. (Ibid: 93). Within the Commonwealth Organization, Chief Olusegun Obasanjo observed that: “The question some of the developing countries are asking is why the developed members of the Commonwealth can’t spearhead policies and programmes, within their countries and other associations or clubs particularly of other developed countries to which they belong, that will advance the cause and interests of the developing countries”. (Ibid: 217). He continues: “..., if the Commonwealth is to remain relevant to these countries, it must be seen to be contributing effectively to their economic viability by addressing the issues of debt, poverty, unfair trading systems, and the denial of market access and the ravages of HIV/AIDS pandemic. The Commonwealth must be seen as an organization that stands by the highest standards and can be expected to, at all times, be on the side of promoting democratic values, supporting democratic consolidation, encouraging holistic reforms, and providing technical support as may be required by its member states”. (Ibid: 217).

At the level of multi-lateral organizations and relations, Chief Olusegun Obasanjo did not only articulate the problems and challenges facing the attraction of FDI in the

developing countries as a whole, he also painstakingly analyzed the character of FDI in the developing economies following the increasing forces and processes of globalization. While, in his words, noting that: "... globalization has brought mixed blessings. The prosperity it engenders is unevenly shared among countries and regions of the world. While the industrialized countries remain its major beneficiaries, the vast majority of members of our group have been unable to take advantage of the opportunities presented by this phenomenon. We have consigned largely to the periphery of further marginalization especially for the most vulnerable of our members, the Least Developed Countries". (Ibid: 228). In the same address he gave in Havana, Cuba in April, 2000 on the occasion of the South Summit, Chief Olusegun Obasanjo further submits that: "The current ODA flows are at their lowest levels ever, recording less than one-third of the internationally agreed target of 0.7% of the GNP of donor countries". (Ibid: 229). To be able to squarely address the situation, he concludes by saying that: "We must leave Havana with a renewed sense of dedication and solidarity to make South-South cooperation a more dynamic aspect of international cooperation of development: (Ibid: 229). Finally, at the bilateral level of relations, and imbued with the goals and objectives of ECOWAS, Republic of Benin, Ghana, Togo and Nigeria jointly launched the Co-prosperity Partnership Alliance Zones (COPAZ) which hopes "to derive economic through functional integration by harnessing the synergy of the socio-economic potentials" of the affected countries.

Notwithstanding, the fact that the Alhaji Umar Yar'adua administration moved at snail speed, the administration was still able to inject the hope of an increased FDI into the Nigerian economy especially with the achievement of relative peace in the Niger Delta Region, the resilient of the Nigerian people in combating the crises and problems of democratic consolidation, the seeming independence of judiciary and rule of law, and ever vibrant free and independent media, and the reforms in the Banking Sector. The new civil service policy of limiting the tenure of the Permanent Secretary to a maximum of two terms of four years will, most likely, impact on efficiency and standards in policy formulation and implementation. The reintroduction of tests and interviews will most likely ensure that the brightest and the best of Directors emerge as Permanent Secretaries in the process of overhauling the entire machineries of government to conform to the realities of contemporary globalization effects. Since assuming office in May, 2009, the Alhaji Umar Yar'adua administration has impacted significantly on the volume of FDI in Nigeria. At the diplomatic level, Alhaji Umar Yar'adua, along with a delegation, visited Davos, Switzerland in January, 2008 during the World Economic Summit, and met with the Chief Executives "... of some of the world's strongest and efficient multi-national corporations including: Teena, Swiss Air, Aofil, Kroll, Isoluns and Team Consult". (The Guardian, 11th April, 2008, pg.9). By the time the team of business executives was visiting Nigeria, on 6th April, 2008, it has increased from the initial number of seven to fourteen (Ibid). The Guardian newspaper as well reported that the Finance Minister, Dr. Shamsudeen Usman, said in Maputo, Mozambique on 15th April, 2008 at the 43rd yearly meeting of the African Development Bank (ADB) that in 2007 alone, Nigeria recorded as much as \$13 billion in FDI compared to the less than \$1 billion in 1999 before the return to democratic rule (Ibid: 9). In May, 2009 the Nigeria Investment Promotion Commission granted "pioneer status" certificates to twenty-one companies. (The Nations, 27th May, 2009, pg.21). The status confers on these companies "a seven year tax holding in respect of industries located in economically disadvantaged local government areas of Nigeria" (Ibid:21). The status was

“... aimed at enabling the industry concerned to make a reasonable level of profit within its formative years...” since the “... profit so made is expected to be ploughed back into the business” (Ibid: 21).

On Tuesday, 20th October, 2009, Nigeria signed in Abuja, the Global Fund Grant amounting to \$669.3 million for the control of malaria and tuberculosis, as well as the strengthening of the health system. (The Nation, Thursday, 22 October, 2009). The textile subsector was planned to benefit from the huge investment of Banquaires Facility International Limited. (The Nation, Tuesday, 13th October, 2009 pg. 19). It was as well reported that China National Offshore Oil Corporation acquired sixteen production licenses in Nigeria with a total investment value of over \$50 billion (The Nation, Friday, 2nd October, 2009 pg. 19). Plans are also on between Japan and Nigeria on the restoration of Overseas Development Fund (ODF) to the tune of \$150 million for the construction of pipeline in the oil and gas sector (The Nation, Monday, 1st June, 2009, pg.44). Nigeria, Algeria and Niger on Friday, 3rd July, 2009 signed an “accord to build a \$10 billion trans-Saharan gas pipeline linking vast reserves in Nigeria to Europe (The Nation, Monday, 6th July, 2009, pg. 37). In July, 2009, as reported in The Nation, Russians gas giant, Gazprom, signed an agreement with the Nigerian National Petroleum Company (NNPC) establishing a 50-50 joint venture in oil, gas processing and transportation. Gazprom as well plans to invest \$2.5 billion in a series of projects in Nigeria (Ibid: 37). Alhaji Umar Yar’adua had played hosts to the Russian President, Mr. Dmitry Medvedev, and the United States Secretary of State, Mrs. Hillary Clinton, in the efforts to woo foreign investments and sell his Seven Point Agenda to the international community. The efforts were however, limited by the problems of election and electoral process in Nigeria which affected the legitimacy of his administration.

Conclusion

This article has preoccupied itself with the interpretations, explanations and analyses of the concepts that are important to the understanding of the arguments and points that are contained in it. The extent to which the return to constitutional democracy in Nigeria in 1999 has impacted on the volume and sectoral allocation of FDI was equally analyzed. Research efforts were as well focused on the examination and analyses of the domestic initiatives at stimulating and attracting FDI, and the efforts in turn placed within the enveloping processes of globalization. The article’s conclusion is therefore that the return to constitutional democracy provides the pointer to a possible improvement in the volume and sectoral allocation of FDI in Nigeria if only the democracy can be consolidated. The hope of consolidation is being rekindled following the remarkable progress made in the 2011 and 2015 General Elections.

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ADMINISTRATION CITY INSTITUTIONAL ARRANGEMENT MODEL IN THE IMPLEMENTATION OF LOCAL GOVERNMENT IN INDONESIA

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Dhany SUKMA

Faculty of Administrative Sciences, Brawijaya University
Malang, Indonesia
dhanysukma.ub@gmail.com

Sumartono

Faculty of Administrative Sciences, Brawijaya University
Malang, Indonesia

Khairul MULUK

Faculty of Administrative Sciences, Brawijaya University
Malang, Indonesia

Fadillah AMIN

Faculty of Administrative Sciences, Brawijaya University
Malang, Indonesia

Abstract: *The administrative city institutional model should have room for analysis related to the existence of these institutions in supporting public services in the context of regional government administration that adheres to the principle of single autonomy, one of which is DKI Jakarta Province as an autonomous region. The problem faced by administrative cities today is because the mayor's task is stronger in coordinating regional apparatus units, so that the accountability of the mayor's performance is difficult to measure. The purpose of this study was to find a model for the appropriate administrative city institutional arrangement in the administration of the DKI Jakarta Province regional government. The research method used is qualitative research with an analytical descriptive approach. The results show that the decentralization within city model is the right model for DKI Jakarta, namely decentralizing institutional tasks to smaller units so that needs, responsibilities and decision making are closer to the community. This approach encourages the formation of a neighboring city government and a Mini-city Hall in the administrative city of Central Jakarta.*

Keywords: *Institutional Arrangement, City Administration, Government, DKI Jakarta.*

Introduction

The institutional arrangement of DKI Jakarta cannot be separated from the division of government affairs, both general government affairs and concurrent affairs that must be carried out and accountable for its implementation by autonomous regions to the center which is the first element of regional government, after the clarity of government affairs according to regional authority, to carry out these affairs institutionalized. The source of the city's administrative authority comes from the DKI Jakarta province as the sole

recipient of authority to carry out government affairs from the center and is an inseparable part of the DKI Jakarta Province institution and status as a regional apparatus of the DKI Jakarta Province. The phenomenon related to the position of the service as a regional apparatus that carries out concurrent affairs will be closely related to the regional tasks carried out by the mayor/regent who is also the head of the regional apparatus in which there are sub-district heads and lurahs who have the working area of DKI Jakarta Province. Referring to the conclusion above, it is legally impossible to form an autonomous region at the sub-district level or in DKI Jakarta at the administrative city level because the existence of an administrative city/regency is a regional apparatus of a province. Most likely rationally that can be implemented is by delegating some of the authority and affairs or sub-government affairs to the mayor or administrative regent. This is in line with what is regulated in Law number 29 of 2007 article 26 paragraph (9) The Regional Government of DKI Jakarta Province delegates some of its authority and government affairs to the city/district administration, sub-district and village administrations in order to improve services to the community.

If we take a deeper critique regarding the position of the administrative city which is juridically as a regional apparatus for DKI Jakarta Province, it still causes serious debate, especially as seen from the preparation of the academic text on changes to the law on the capital which was carried out by the Election Advocacy Study Institute (LKAP) (2005) stating that the existence of A non-autonomous city/administrative district is an act that contradicts and is not in accordance with the provisions of Article 18 of the 1945 Constitution. However, if viewed from the characteristics of very fast urban development, it is still considered relevant, especially in the structure of urban areas which are developing very rapidly and the phenomenon tends to occur in urban areas. sprawl that requires space beyond the jurisdictional limits of each local government's jurisdiction. It is conceivable that if the city of DKI Jakarta is autonomous, then political fragmentation within the limited area of DKI Jakarta can certainly cause new problems that are increasingly complex because the handling of urban problems cannot be done partially but prioritizes the integration of regional-based programs. The problem of program integration in intervening in regional structuring is collided with regulations in the management of separate assets between each regional apparatus, especially the organizational arrangement of regional apparatus, one of which is based on government affairs in accordance with regional authority which has the potential for sector ego in the administration of government affairs. This condition is a serious concern, especially if it is related to the position of an administrative city that has the same characteristics and urban interests so that it is not politically fragmented so that the position of the city of DKI Jakarta is administrative as an apparatus of the DKI Jakarta province which is still felt to be relevant (Ramses & Bakry, 2010). Until now, the administrative city has not been delegated the authority to carry out a significant portion of government affairs which is dominated by the coordination function and makes it difficult to measure the accountability of the performance of the administrative mayor. This certainly has an impact on optimizing the performance and effectiveness of the administration of DKI Jakarta Province. Meanwhile, the task of the administrative city is to assist the governor in the administration of general government affairs, to coordinate the implementation of the tasks of the regional apparatus, to foster sub-districts and sub-districts and to carry out other tasks ordered by the governor. In other words, the administrative mayor's duties are only coordination and coaching.

In addition, Hankia & Downs (2010) also added that the position of mayor/regent can also be used as a semi-autonomous agency so that it has the authority to make decisions in overcoming certain problems and is a DKI Jakarta institution that is given the authority to manage certain problems, semi-autonomous city/district problems. To assist the implementation of these tasks, the Mayor/Regent is assisted by bureaucratic apparatus at the city/district level along with other needs (personnel, finance, infrastructure and so on). Another problem is related to the division of tasks and the working relationship between the Service, Sub-department and City administration/Administrative District. Referring to the DKI Jakarta Regional Regulation Number 5 of 2016 concerning the Formation and Organizational Structure of Regional Apparatuses, it is explained that the service tribe is an official work unit in the administrative city/administrative district. In other words, both the Service and the Service tribe carry out the same tasks/functions. Taking into account efficiency considerations and optimizing performance results, why do offices and sub-departments not share roles/functions where the Service is more directed to formulate technical policies and supervision-supervision (binwas) on government affairs being handled, while the service tribes are more directed as implementers of technical policies drawn up by the Service, so that neither the Service nor the sub-department are the same as implementers which can actually lead to the overlap that has been happening so far. Based on this phenomenon, the regional apparatus of DKI Jakarta administration in carrying out their duties and functions in accordance with the mandate of Law no. 23/2014, the concept of decentralization within cities carried out by the government becomes interesting to study in order to obtain a clear description and analysis of the existence of an administrative city territorial administration implementing unit in accordance with applicable laws and regulations. So, based on the explanation above, the problem that will be formulated by the author is to find an appropriate administrative city institutional arrangement model in the administration of the DKI Jakarta Province regional government.

Research Method

Approaches and Types of Research

This research uses qualitative research with analytical descriptive approach. Qualitative research intends to understand the phenomenon of what is experienced by the research subject holistically, and by way of description in the form of words and language, in a special natural context and by utilizing various scientific methods (Moleong, 2007).

Location Research

The location of this research was carried out in DKI Jakarta Province, which became the object of this dissertation research was the institutional arrangement of city administration as a regional apparatus in DKI Jakarta Province. This is because the administrative city institution is the only administrative city institutional model as a regional apparatus for the DKI Jakarta Province which is not owned by other provincial regions, which include the administrative cities of South Jakarta, Central Jakarta and North Jakarta which have slightly different characteristics and tend to represent other administrative city characteristics.

Source and Types of Data

The data sources of this research consist of primary data and secondary data. Primary data is data obtained directly from research subjects, both individuals and groups.

The statement is intended that researchers will obtain data or information directly by using pre-defined instruments. Primary data is specifically used by researchers to answer research questions. Sources of data from primary data include informants, data sourced from informants recorded through written notes or through video/audio tapes recording, taking photos or films; Events or incidents related to the arrangement of administrative city institutions as regional apparatus in the DKI Jakarta Province. While secondary data is data obtained by researchers through intermediary media. Secondary data consists of data in the form of evidence, records or historical reports that have been stored as archives or documentary data, both published and unpublished.

Collecting and Analyze Data

The data collection techniques used in this study as revealed by Kothari are interviews, documentation and field observations (Kothari, 2004) by combining the data collection techniques which will then be analyzed to the next stage. The data analysis process follows the Interactive data analysis model from Rashid (2005), namely the analysis is carried out continuously during data collection in the field until data collection is completed. This analysis includes several activities, namely reviewing data, grouping data, finding what is important according to the research focus and studying and deciding what to report. Thus the data analysis process runs simultaneously or continuously during the research process. For example, researchers collect data to collect documents on Laws, Permendagri, Regional Regulations, Governor Regulations related to the Implementation of City Administration Institutional Arrangements, to then sort them out and present their descriptions in research reports. This process is repeated for other data collection, according to what is in the research focus, so that all research problems can be answered.

Result and Discussion

Based on the presentation of research results through observation, interviews and documentation, the findings show that institutionally the administrative city of Central Jakarta has not been able to agilely intervene in the problems that exist in the urban community of Central Jakarta which is increasingly complex and dynamic. In handling problems, the Mayor of the administration cannot deny the occurrence of functional intersections with elements of the Service and Sub-Department which in the end extends the span of control of the bureaucracy. The coordination function assigned to the Mayor is deemed insufficient to approach problems at the grassroots and its relation to strengthening local democracy, because after all the mayor does not seem to have a social contract to the public so that he has limitations in terms of output and performance outcomes. The New Public Service paradigm in the context of local government administration is manifested in institutionalized community participation. The NPM paradigms are considered a failure in part because they do not effectively accommodate citizen engagement. It is because of what is considered a failure in the NPM framework that in the last few decades there has been a lot of discussion about the call to provide a deeper space for democracy through the new role of public administrators, social accountability and transparency of information. This model is often referred to as the serving phase or what is familiarly known as the New Public Service (NPS) (J. Denhardt & Denhardt, 2003). This paradigm encourages the state to provide citizen-centric services within the framework of deliberative democracy that

allows citizens to play a more constructive role in monitoring and ensuring that minimum service standards are achieved (Gastil & Levine, 2005).

The main principles in the NPS model developed by Denhardt and Denhardt are constructed on seven interrelated ideas as follows (Silalahi & Syafri, 2015): 1. Serve citizens, not customers: citizens in public services are not just consumers. , but he is a citizen. The public interest is the result of a dialogue about shared values rather than the imposition of private interests or as formulated by politicians. Therefore, public servants do not merely respond to the wishes of consumers, but rather build relationships of mutual trust and collaboration with and among citizens; 2. Seek the Public Interest: Public administrators must contribute to building a collective sense of the common public interest. The goal is not to seek quick solutions initiated by individual choice. However, it is a creation of shared interests and shared responsibilities; 3. Value Citizenship over Entrepreneurship: The public interest is further promoted by public servants and citizens who are committed to making a meaningful contribution to society than entrepreneurial management who act as if public money is their own money. 4. Think Strategically, Act Democratically: Policies and programs that meet public needs can be achieved effectively and responsibly through collective efforts and collaborative processes; 5. Recognize that Accountability Is Not Simple: Public servants must carefully monitor not only the market, but also constitutional law, community values, political norms, professional standards, and citizens' interests. 6. Serve Rather Than Steer: It is increasingly important for public servants to use shared values-based leadership to help citizens articulate and fulfill their common interests rather than trying to control and steer society in new directions; 7. Value People, Not Just Productivity: Public organizations and networks in which they participate are more likely to succeed in the long term if they are operated through a process of collaboration and shared leadership based on respect for all.

Based on the results of the study, it was shown that the dynamics of the administration of local government in the Central Jakarta Administrative City showed interesting findings. This is inseparable from the Central Jakarta Administrative City institution which is under the autonomous command of the Governor as a regional apparatus so that it has limited authority in terms of intervention in public issues. Even though the problems in Central Jakarta are increasingly dynamic and complex, requiring an accountable and agile administrative city institutional pattern (Agile).

Based on intervention research on classic problems in DKI Jakarta, such as the arrangement of four market areas contained in the Regional Medium-Term Development Plan (RPJMD). Over time, this arrangement has not shown significant progress, due to budget constraints and bureaucratic factors that have not been completely free from sectoral egos. The mayor of Central Jakarta administration actually has the capacity and capability to optimize resources for the achievement of the program. However, the handling of this program has involved many actors and various sectors which are actually encouraged to synergize and collaborate. But the reality shows that these actors are still stuck in the routine of coordination only.

The dynamics of the institutional existence of the Central Jakarta Administrative City can also be discussed in the context of institutional isomorphism, especially if it is associated with the fact that public sector institutions always accept new regulations both in the context of local government and also from the central government. Therefore,

government institutions are always encouraged to adapt to changes in structure, routines and habits (Muluk & Danar, 2021).

In its journey, the Central Jakarta Administrative City has always carried out good development programs that involve many and diverse layers of actors, so that many programs appear to be successful on the surface but do not actually reflect the actual development situation. There is a kind of capability traps, namely high expectations that accompany development programs driven by a good governance approach that ends in neglecting the capacity of the government system to implement them. This reality is relevant to the term isomorphic mimicry, namely how organizations make assumptions that appear superior but are only cosmetic and temporary.

From an empirical perspective, based on the results of the case study, the regional arrangement that is listed on the Mayor's performance tends to be in place. This is because the Mayor does not have sufficient ammunition of authority to intervene in the program. Resources are fragmented bureaucratically by sector so that the budget and other resources cannot be optimally located in the City Secretariat, Central Jakarta administration. In the end, the Secretariat of the Central Jakarta City Administration was not able to agilely execute these prestigious programs.

On the other hand, Pritchett et al (2013) actually see isomorphic mimicry in a positive light as an effort to strengthen administrative capabilities within the scope of public sector institutional arrangements. This approach was adopted by the bureaucratic institutional structure as a camouflage to cover the limitations of the institutional function. However, in the end, the continuous application of isomorphic mimicry can increase the burden in the form of a 'capability trap' and in the long run will lead to the failure of the implementation of a government program. This is a concern as well as motivation so that City Administration institutions can transform into responsive, adaptive and collaborative institutions with the main key in strengthening capacity to increase capability, namely in the form of delegation of greater authority to intervene in a public problem.

In the course of the dynamics of administrative city governance, it is relevant to the decentralization within city model, namely decentralizing institutional tasks to smaller units so that needs, responsibilities and decision making are closer to the community (Norton, 1994). In terms of public participation in the United States, decentralization within cities is manifested in the form of neighboring government and Mini-city Hall. This model can also be traced in England which they call neighborhood decentralization.

In an urban environment as a result of decentralization policies, the formation of urban sub-administrations as representative advisory units has been accepted in European countries with the aim of articulating the needs of their environment while bringing power closer to the people and attracting more participants into the political system (Norton, 1994). Several countries have given authority to the sub-units of urban administration to carry out and budget for managing work towards a general pattern of decentralization of functions throughout the new area based on the principle of subsidiarity or the formation of branches called decentralization within the city.

In addition, local administrative centers were established in a number of cities, especially in New York and Philadelphia to encourage constructive initiatives by voluntary groups to develop into self-administration levels, but success has been limited. Likewise in the UK some cities have decentralized administration to local sub-urban offices which

are expected to form close consultative arrangements with local residents but this is also still considered to have no significant impact, except for a few cases (Norton, 1994).

The above description is in line with the opinion of Muluk (2009) which explains that Decentralization within the City is a form of public participation in the US, which is manifested in the form of neighboring government and mini city halls which are practiced in the US in thousands of administrative areas. sparsely populated. The federal government has supported its existence to stimulate self-help in large cities since 1961, by financing this self-help and supporting maximum participation of the poor. Small town halls and neighborhood service centers were opened with the hope of building community corporations selected from volunteer action groups to advise local government officials and initiate self-help. Its functions include monitoring of services and preparation of regional development programs, compliance with capital and revenue budget priorities, participation and project planning and discussion, discussion of plan applications, assistance in the preparation of service reports by local government agencies, processing of citizen complaints and demands, dissemination information on local government services and programs. Service boundaries are sought as far as practicable and do not overlap with any district except the school district. However, the results are often disappointing as it requires priority to achieve fragmented administrative coordination.

Based on Muluk's explanation above, it can be seen that decentralization in the city requires community participation through institutions formed by the government to increase the potential for self-reliance and participation of the poor or marginalized such as RT, RW, Kelurahan Deliberative Institutions and City Councils which are directly elected by the community or community. in the administrative city area of Central Jakarta. The community institutions are regulated based on the Regulation in article 6 (1) of the Minister of Home Affairs Number 18 of 2018, Types of Village Community Institutions at least include a. Neighborhood Association b. Pillars of Citizens c. Empowerment of Family Welfare, d. Youth Organization e. Integrated Service Post, and f. Community Empowerment Institutions and the Act, namely Law Number 29 of 2007 article 24 (1) To assist the mayor/regent in administering the city/district government, a City/Regency Council is formed, article 26 (1) To assist the lurah in administering the kelurahan government in form of village council.

The decentralization within city approach in the context of governance in the administrative city of Central Jakarta can be described clearly. Based on the results of the study, it is illustrated where the role of grassroots elements in the administrative city institutional hierarchy, from the sub-district, village, RT and RW and so on is moving massively in terms of participating and being the front line in handling the covid-19 pandemic. In addition, the existence of the city council as an element of control over the city administration also plays good social and political control for strengthening local democracy in the Central Jakarta Administrative City.

Meanwhile, the mini city hall is run by village, sub-district and city administration officials to receive input and to facilitate community participation in the planning, program implementation and budgeting processes as well as development information. The idea of decentralization in cities with the formation of branches (subsidiarities) through sub-urbans is in line with the basic idea of the importance of decentralization by Cheema and Rondinelli (1983), namely: By decentralizing functions and reassigning central government officials to local level, these officials knowledge of and sensitivity to local

problems and need can be increased. Closer contact between government official and the local population would allow both to obtain better information with which to formulate more realistic and effective plans for government projects and programs.

If one observes the concept of decentralization within the city above, the formation of sub-urban branches is closer to management decentralization in the form of deconcentration (Burn, et al, 1994). Thus, decentralization within the city is related to the formation of administrative cities that adhere to single autonomy or one-level regional government, the administrative city institutional model adheres to the efficiency structural model with the delegation of authority which is *ultra vires* doctrine, namely the authority that is delegated to carry out certain affairs or actions or provide certain services. course (Muluk, 2009) which aims to ensure the creation of efficiency and economy, especially for uniformity and conformity (Hoessein 2011). In addition, the Structural efficiency model approach aims to increase the efficiency and effectiveness of government administration (Prasojo et al., 2006).

In decentralization within a city, the formation of an administrative sub-urban is a consequence of the application of the principle of deconcentration, namely the transfer of a number of administrative authorities and responsibilities to lower branches of government departments or agencies (Rondinelli, Nellis and Cheema (1983) which has dimensions (1) delegation of authority (2) decision-making, finance and management functions (3) different levels of government and (4) within the central jurisdiction (decentralization within the city). This deconcentration gave birth to field administration or administrative areas (Prasojo et al., 2006).

The administrative area is a decentralized environment within the city (decentralization within the city), as a consequence of the decentralization policy the formation of territorial sub-divisions of a country that has a measure of autonomy and self-governing through political institutions that have roots in the region in accordance with their jurisdictional boundaries and these institutions are recruited democratically (Muluk, 2009). Therefore, the decentralization policy requires area restrictions based on the spatial pattern of social and economic life, a sense of political identity and the efficiency of public services that can be implemented and decentralization includes the delegation of authority, both political and bureaucratic authorities (Smith, 2012).

The existence of an administrative unit that has a deconcentration pattern within the scope of decentralization within the city, it is possible for the administrative city to get the delegation of authority to carry out some government affairs within the scope of its work area to improve the quality of service for its citizens. Within the scope of the administrative city, there are lower community organizations that are formed voluntarily which are initiated and determined by the government as part of the local sub-government to strengthen community participation through a neighboring organization as a form of the penetration system approach (penetrated system approach) (Ruland, 1988). In relation to decentralization within the city, the decentralization thought conveyed by Burns, et al (1994) said that the formation of an administrative unit that has a regional basis can be strengthened in its role by being given greater authority, not only the authority to coordinate and consult in relation to with general government duties but the authority to carry out several affairs that are carried out in an integrated manner in a complete plan to improve the quality of services for city residents, meaning that the given authority is one of the strengthening of the administrative unit organization in making decisions related to

services provided in accordance with its jurisdictional limits. . City administration is a form of decentralization within a city in the form of deconcentration which produces field administration which has 3 (three) important aspects that are different from devolution, namely the form of authority given to field officers is more bureaucratic than political, the two regional administrators are usually civil servants. civilian recruited normal selection and third areas where field officers are limited by the administrative requirements of the functions performed (Smith, 2012).

To increase the participation of the community, the mayor is assisted by the city council which is a deliberation institution at the city/district level for community participation in the implementation of development and improvement of community services. The city council is elected by the DPRD based on elections held at the kelurahan level. Meanwhile, at the kelurahan level, a kelurahan deliberation institution was formed that functions to accommodate aspirations and increase community participation and empowerment, which is the practice of neighborhood decentralization presented by Burn et al., (1994) namely: “By empowering we mean enhancing the degree of decision making authority. By neighborhoods we refer to sub areas within the geographical area of the authority. these could, in practice , be small districts within a city or village/small towns within a country”.

The existence of the city council and deliberative institutions is a forum for the community to participate and at the same time convey the aspirations of the community towards the service needs that must be met by the Special Capital Region of Jakarta while making mayors, sub-districts and lurahs more responsive and accountable to the demands of the community. In addition, the concept of institutional dynamics is also an important reference to consider in transforming functions into institutional models as a result of adaptation to the development of urban community demands, so that it will be clear that institutional arrangements depart from the diffusion of innovations or based on institutional historical experience. Environmental aspects and institutional dynamics will form a more responsive and accountable model of administrative city institutional arrangement.

Conclusion

Based on the presentation of research results through observation, interviews and documentation, the findings show that institutionally the administrative city of Central Jakarta has not been able to agilely intervene in the problems that exist in the urban community of Central Jakarta which is increasingly complex and dynamic. In handling problems, the Mayor of the administration cannot deny the occurrence of functional intersections with elements of the Service and Sub-Department which in the end extends the span of control of the bureaucracy. The coordination function assigned to the Mayor is deemed insufficient to approach problems at the grassroots and its relation to strengthening local democracy, because after all the mayor does not seem to have a social contract to the public so that he has limitations in terms of output and performance outcomes. In its journey, the dynamics of administrative city governance are in line with the decentralization within city model, namely decentralizing institutional tasks to smaller units so that needs, responsibilities and decision making are closer to the community. This approach encourages the formation of a neighboring city government and a Mini-city Hall in the administrative city of Central Jakarta. This model can also be traced in England

which they call neighborhood decentralization. Therefore, in order for the Central Jakarta Administrative City to transform into agile, it is important to establish urban sub-administration as a representative advisory unit at the grassroots level. It aims to bring power closer to the people and attract more participants into the political system. Several countries have given authority to the sub-units of urban administration to carry out and budget for managing work towards a general pattern of decentralization of functions throughout the new area based on the principle of subsidiarity or the formation of branches called decentralization within the city.

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FINANCE

FISCAL NEUTRALITY HYPOTHESIS: AN ANALYSIS OF THE NIGERIAN LOCAL GOVERNMENT REVENUE AND EXPENDITURE

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Gbenga Festus BABARINDE

Department of Banking and Finance, Modibbo Adama University
Yola, Nigeria
liftedf gb@gmail.com

Abstract: *There is yet to be a consensus on government expenditure and revenue nexus. The debate revolves round four major arguments, namely, revenue-spend hypothesis, spend-revenue hypothesis, fiscal synchronization hypothesis and fiscal neutrality hypothesis. The fiscal neutrality hypothesis postulates lacks of causal relationship between revenue and expenditure of the public sector. This study specifically examines the validity of the fiscal neutrality hypothesis in the Nigerian Local Government. The extent to which this hypothesis is true or false in the Nigerian Local Government (LG) deserves empirical investigation considering the role of the tier of government at ensuring grassroots development. Hence, this study sets out to test the fiscal neutrality hypothesis in the LG of Nigeria, using a quarterly data from 1993Q1 to 2019Q4. The data were sourced from Central Bank of Nigeria's statistical bulletin and analyzed using pairwise Granger causality technique after testing for unit root and cointegration. This therefore study upholds the fiscal neutrality hypothesis in the Nigerian LG, having confirmed no causal relationship between expenditure and revenue in the Nigerian LG. It is high time that fiscal synchronization of Local Government revenue and expenditure be vigorously pursued by the government through various reforms.*

Keywords: *Fiscal neutrality hypothesis, local government, government revenue, government expenditure, institutional separation hypothesis.*

Introduction

There are four basic strands of arguments on government expenditure-revenue nexus, namely, fiscal neutrality hypothesis (otherwise called independence or institutional separation hypothesis), revenue dominance hypothesis (or tax-spend school), expenditure dominance hypothesis (or spend-tax school), and fiscal synchronization hypothesis. The fiscal neutrality hypothesis is a hypothesis of institutional separation or independence which postulates a neutral, and independent relationship between revenue and expenditure of the public sector. The validity of this hypothesis in the Nigerian Local Government (LG) deserves empirical investigation considering the role of the tier of government at ensuring grassroots development. Murana (2016) reiterates that the 1976 Local Government reform in Nigeria has resulted in the autonomy of this third tier of government and as a result of standing as a separate legal entity, their performance of the constitutional roles as entrenched in the 1979, 1989 and 1999 of the Nigerian constitution, have relatively improved. Basically, the Nigerian Local Government revenue is currently composed of revenues from sources like federation account, state allocation, Value Added Tax (VAT), internally generated revenue (IGR), excess crude, budget augmentation and Subsidy Reinvestment and Empowerment Program (SURE-P), exchange gain and non-oil excess revenue, and grants and others. Nigerian Local Government expenditures like other tiers

of government (state and federal), could be divided into capital and recurrent expenditures. Statistics indicates that within 27 years of this study (1993-2019), The 774 Local Government Areas (LGAs) in Nigeria generated an average revenue of ₦784.1259billion while their average expenditure was ₦786.5919billion; thus the expenditure exceeds the revenue by ₦2.466billion (0.31%). The revenue of the LG in Nigeria in the study period ranges between a minimum of ₦19.22000 and a maximum of ₦1810.050. However, ₦18.97000 and ₦1806.910 are minimum and maximum value of LG total expenditure over the period (Central Bank of Nigeria, [CBN], 2019). The revelation from these statistics is that there is fiscal deficit in the Nigerian local government and prudent management of this fiscal situation is key to the attainment of macroeconomic objectives of government in the area of economic growth, stability and welfare of the country.

Understanding the direction of causal relationship between revenue and expenditure of government helps the government in fiscal management in the area of budget deficit control and management (Richter & Dimitrios, 2013). Thus, in a situation where tax-spend fiscal reality in a country, budget deficits can be controlled using government revenue stimulating policies but in a situation of no causality between revenue and expenditure of government, revenue and expenditure decisions of government are made independently and separately (Narayan & Narayan, 2006). The situation of fiscal neutrality, according to the authors, could bring about excessive budget deficits with the government expenditure increasing faster than government revenue. Moreover, the authors explain that when the spend-tax hypothesis plays out, government spends first and pays for the expenditure by increasing taxes; and therefore there is resultant capital outflow because of the fear of paying higher taxes in the future by the tax payers.

Furthermore, understanding the relationship between government revenue and expenditure is key in providing policy solutions to fiscal problems occasioned by budget deficit, rising public debt and the attendant issues (Kiminyei, 2018). One of the yet unresolved issues in public finance and accounting is the empirical relation between government revenue and expenditure. Despite the avalanche of research on the subject matter, this notwithstanding, divergent results are being reported in various studies, ranging from unidirectional causality flow from government revenue to public expenditure, thus upholding the revenue-spend hypothesis (Mehrara and Rezaei (2014) in Iran; Obioma and Ozughalu (2010), Ogujiuba and Abraham (2012), Yinusa and Adedokun (2017), and Yinusa et al (2017) in Nigeria). However, other crops of studies, such as Richter and Dimitrios (2013) in Greece; Nwosu and Okafor (2014) in Nigeria; Lojanica (2015) in the Republic of Serbia; Kiminyei (2018) in Kenya, provide evidence of a unidirectional causality flow from public expenditure to government revenue, thus lending credence to the spend-revenue hypothesis. Moreover, studies like Mehrara et al (2011) in 40 Asian countries, and Babarinde et al. (2021) in Nigeria, documented an empirical evidence of a bidirectional causality between the government revenue and expenditure, which provides support for the fiscal synchronization. In addition to the divergent findings in past studies, large number of past studies that had investigated the relationship between government revenue and government expenditure concentrated on the central/federal government without considering the Local Government-the third tier of government targeted at grassroots development. Hence, there is an empirical lacuna on the nexus between revenue and expenditure at the Local Government level most especially in a developing country

such as Nigeria. Therefore, the divergent results and scarcity of studies on LG revenue-expenditure nexus constitute the primary motivations for this study.

The main aim of this study was to determine the causality between Local Government revenue and expenditure in Nigeria. The specific objectives are to: examine if there is long-run connection between revenue and expenditure at the Local Government level in Nigeria; and investigate the direction of causality between Local Government revenue and expenditure in Nigeria.

Literature Review

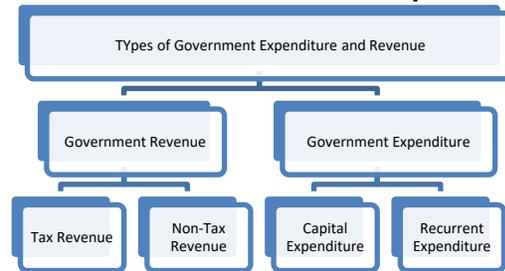
2.1 Conceptual Literature

2.1.1 Government Revenue

Government revenue refers to the revenue received by a government to employed in the financing of its activities and projects and programmes (Muriithi, 2013). Government revenue otherwise called public revenue refers to various income sourced by government from sources like taxes, fines, investment income, business, donations, grants, aids, etc., which are used in financing its operations, activities and expenditures. Prominent among these sources is taxes.

The basic classification of government revenue and expenditure is depicted diagrammatically in Fig.1.

Fig.1: Classification of Government Revenue and Expenditure



Source: Author's design, 2021

The classification of government revenue and expenditure as shown in Fig.1 indicates the two basic forms of public revenue, namely, tax revenue and non-tax revenue. Tax refers to compulsory levy imposed by the government on its subjects, their income, profits, consumption and assets. Thus, government revenue obtained solely from taxes collection are called tax revenue. Ogwuche et al (2019) also conceptualize tax as a compulsory fee, individual as well as corporate bodies are obliged to comply with as stipulated by the tax laws. Muriithi (2013) explains non-tax revenue as the government revenue other than taxes, such as fees, grants and gifts, fines and penalties, etc.

2.1.2 Government Expenditure

Government expenditure (or public expenditure) are various expenses and costs incurred by government in acquiring items of capital expenditure, and settling day-day expenses for the efficient operation and administration of government activities and provision of public goods. Government expenditure could be classified in to capital expenditure and revenue expenditure (see Fig.1). It is capital expenditure when is expended in acquiring long-lasting assets and investment of long term duration, value and durability,

like construction of bridges, houses, roads etc. A government expenditure is said to be revenue expenditure when it is incurred on day-to-day expenses for the proper administration of governmental units, department, units, organisations, such as payment cost incurred in payment of salaries and wages, purchase of consumables, etc.

2.1.3 Nature and Functions of Local Government in Nigeria

In Nigeria, the local government is the third tier of government. It is local unit of government within the state in which constitutional authority decide on issues of community importance and consequently engage in the mobilization of community resources for implementation of the local decisions (Diejomaoh & Eboh, 2010). Okeke and Agu (2016) opine that Local Government as an institutional arrangement, and distinct institution, receives input from some other institutions and its output is expected to also grow these other intuitions. The authors also regard Local Government as a process of ensuring that government and its activities are brought in close proximity to every citizen in any location, no matter how remote.

Local Government in Nigeria is the closest to the people and is charged with the responsibility of policies formulation and implementation geared towards community development (Ibietan & Ndukwe, 2014). Local Governments are strategic institutions for the development of the grassroots (Diejomaoh & Eboh, 2010). Nigeria is a federation of 36 states, federal capital territory (FCT) and 774 Local Governments and has three tiers, namely, federal, state and Local Government. As the as the third tier of government in Nigeria, each Local Government area is administered by a Local Government Council, headed by a chairman and assisted by other elected members (called Councilors) (1999 constitution of the Federal Republic of Nigeria [CFRN], 2011).

CFRN (2011) provides for the main functions of a LG council to include the provision of policy recommendations on economic development of the state. L G is also saddled with the responsibility of certain levies, fees, taxes and rates such as rate on radio and television licences; licensing of bicycles, trucks, canoes, wheel barrows and carts; establishment and maintenance of cemeteries, burial grounds, slaughter houses and slabs, markets, motor parks and public conveniences. Furthermore, LG is also involved in the construction and maintenance of roads and streets including naming of roads and streets and numbering of houses. Other functions of LG in Nigeria include registration of all births, death and marriages; control and regulation of out-door advertising and hoarding; movement and keeping of pets of all description; shops and kiosks; restaurants, bakeries, laundries; as well as licensing, regulation and control of the sale of liquor.

2.2 Theoretical and Empirical Literature

Theoretically, the government spending-revenue behavior theory (fiscal theory) is a strand of propositions explaining the various relationship between government revenue and expenditure. These four major arguments are the revenue-spend hypothesis, the spend-revenue hypothesis, fiscal neutrality and fiscal synchronization hypothesis. The revenue-spend hypothesis also called revenue dominance hypothesis or tax-and-spend school led by Friedman (1978) and Buchanan and Wagner (1978) states that raising taxes Granger-cause (lead) expenditure, thus more spending will increase fiscal deficit in the country. The theory contends that taxes have a positive impact on government expenditure. In other words, the theory states that changes in public revenue causes changes in public

expenditure, hence the existence of a unidirectional causality running from government revenue to government expenditure (Obioma & Ozughalu, 2010).

The spend-revenue hypothesis led by Peacock and Wiseman (1961, 1979) contends that government expenditure Granger-cause government revenue, such that government spending have a positive causal impact on government revenue. In other words, there is a unidirectional causality flow from government expenditure to revenue. Fiscal synchronization hypothesis as proposed by Musgrave (1966) and Meltzer and Richard (1981) posits a bidirectional causal link between government revenue and expenditure. This suggests a mutual connection between the revenue machinery and the expenditure framework in the country, in that taxes and spending decisions are made concurrently.

This study derives its theoretical strength from the fiscal neutrality hypothesis otherwise called fiscal independence theory or institutional separation theory. Proposed by Baghestani and McNown (1994), fiscal neutrality hypothesis is a hypothesis of institutional separation or independence which postulates a neutral and independent relationship between government revenue and expenditure. Hence, revenue decisions are made independent of expenditure decisions and vice versa. It is long run economic growth the determines the revenue and expenditure of government rather than each other. The hypothesis states that there exists no causal relationship between government revenue and expenditure. The fiscal neutrality hypothesis operates on the principle of separation of powers among the arms of government, in terms of executive, legislature and judiciary. According to Lojanica (2015), since the executive and legislative authorities are independent, hence the appropriate policy implications are related to the fact that the budget deficit is a result of higher increase in government expenditure than in government revenues, since these two variables are mutually independent. In this theory, there is no long-run relationship between government expenditure and revenues, hence, this fiscal policy option is considered not to be sustainable over a long period (Richter & Dimitrios, 2013). Therefore, fiscal neutral hypothesis implies that neither of the revenues and expenditure are related with changes in budget position.

Empirically, the subject matter of nexus between government revenue and expenditure has been examined by various scholars among which is Mehrara et al (2011) who examined the relationship between government revenue and government expenditure in 40 Asian countries. The study indicates that there is a bidirectional causal relationship between government expenditure and revenues in both the long and the short run and fiscal synchronization hypothesis is confirmed. Hence, in the selected Asian countries both revenue generation and expenditure decisions are made simultaneously. Similarly, Richter and Dimitrios (2013) analysed the direction of the causality between government spending and revenues in Greece. Granger-causality test's result indicates that the causality runs from expenditure to revenues, thus support of the spend-tax hypothesis in Greece. This implies that the government of Greece makes expenditure decisions first and pay for their spending later by raising taxes. This unlike in Iran (as established by Mehrara and Rezaei (2014)) and Republic of Serbia (Lojanica (2015)) where the authorities raise taxes first before expending, hence the existence of revenue-spend hypothesis in the countries. In another study, Otinche (2014) investigated the dynamics of fiscal policy at the Nigerian Local Government level. The author condemned at the existence of municipal area councils but advocated for more rural based Local Government councils and implementation of fiscal laws for fiscal efficiency and grassroots development.

In a related study, Murana (2016) examines Local Government finance in Nigeria with a focus on Iwo Local Government Area, Osun State, Nigeria. The study shows that financial transfers from federal government are the most viable and reliable source of Local Government revenue and that without federal allocation no capital project can be embarked on in the Local Government. While Murana reiterates the over-reliance of LGA on the federal government for its fiscal survival, Otinche however, emphasizes the strict fiscal discipline as a catalyst for the third tier of government to contribute meaningfully local development. Furthermore, Kiminyei (2018) investigated the nexus between tax revenue and government expenditure in Kenya. The study found that changes in government expenditure causes changes in government revenue, hence Kenya budgetary authorities follow the spend-revenue hypothesis. An evidence of a bidirectional causality between state government revenue and expenditure (fiscal synchronization hypothesis) in Nigeria was found by Babarinde et al (2021) when they tested the validity of the fiscal synchronization hypothesis in Nigeria's states and Federal Capital Territory using pairwise Granger causality technique.

Most of the studies in Nigeria confirm the reality of the tax-spend hypothesis in the federal government fiscal policy prescription (Obioma and Ozughalu (2010); Ogujiuba and Abraham (2012); Yinusa et al (2017); Yinusa and Adedokun (2017)). This implies that Federal Government of Nigeria tries to find means of raising revenue via taxes and other means before decisions are made on spending the revenue. Therefore, changes in the revenue structure in Nigeria spurs changes in the expenditure framework in the country at the federal level. Specifically, Obioma and Ozughalu (2010) examine the relationship between federal government revenue and expenditure in Nigeria. The study established an evidence of a unidirectional causality from government revenue to government expenditure, thus supporting the revenue-spend hypothesis for Nigeria. Similarly, Ogujiuba and Abraham (2012) examine the revenue-spending hypothesis for Nigeria and found that causality runs from revenue to expenditure in the country. In the same vein, Yinusa et al (2017) revisits the revenue-expenditure nexus in Nigeria using the asymmetric cointegration methods. Results of the study show that state and FCT government revenue have a significant impact on state and Local Government expenditure in the short run, thus supporting the tax-spend hypothesis for the state and FCT government in Nigeria. Moreover, Yinusa and Adedokun (2017) investigate the various fiscal hypotheses (tax-spend, spend-tax, fiscal synchronization and fiscal neutrality hypotheses) in Nigeria. The study established one-directional causality that runs from government revenue to expenditure (tax-spend hypothesis) in Nigeria in the study period.

However, Nwosu and Okafor (2014) assessed the relationship between both government expenditure and capital expenditures, and revenue and non-oil revenues in Nigeria. The study shows among others, an evidence of unidirectional causalities running from expenditures to revenue variables, thus supporting spend-tax hypothesis in Nigeria. The study is different from findings of others on the same subject, in that, rather than revenue dictating the nature of expenditure, Nwosu and Okafor argue the other way round, that is, the Federal Government of Nigeria incurs expenditure first, then tries to raise taxes and other revenue to take care of the expenditure.

In summary, past studies on government revenue-expenditure was examined via the lens of the federal/central government. None of the study reviewed actually examined

the nexus between Local Government revenue and expenditure in a developing country like Nigeria.

Methodology

In this study, the investigation of the nexus between Local Government revenue and expenditure in Nigeria is anchored on the *ex-post facto* design where past historical time series were used to establish relationship between the two variables of interest, namely, LG revenue and expenditure. The annual data on the two variables were sourced from the Central Bank of Nigeria (2019)' statistical bulletin and were computed/prorated on quarterly basis to cover a period from the first quarter of 1993 to the last quarter of 2019 (1993Q1-2019Q4). The quarterly computation of the series becomes necessary due to the insufficiency of the available total number of observations (27) to ensure robust and realistic output in data analysis. Hence, a total of 108 quarterly data sets were used in the data analysis as against the total annual time series of 27 annual time series observations. Both variables (LG revenue and expenditure) are expressed in Billion Naira and were analyzed using pairwise Granger causality technique of estimation after testing for unit root and cointegration tests. Granger causality technique tests whether lagged values of one variable predict changes in another, or whether one variable in the system explains the time path of the other variables in the system (M'Amanja & Morrissey, 2005). In Granger causality, it is assumed that past and present information determines the future better; such that variable y causes variable x if past values of y and x predict x better rather than previous values of x alone, and vice versa (Kiminyei, 2018). Types of causality could be unidirectional causality (one-way causality), bi-directional causality (two-way causality or feedback causality), and zero causality. There is causality from revenue to expenditure, if the present and past values of revenue predict the present value of expenditure. Thus, if revenue granger-cause expenditure or expenditure granger-cause revenue, then we have a unidirectional causality in each case. However, if revenue granger-cause expenditure and expenditure granger cause revenue at the same time, then there is a case of bi-directional causality. In a situation where there is no causality between revenue and expenditure, then there is independence or zero causality situation.

The Granger causality equations of the causal relationship between Local Government revenue and expenditure in Nigeria are specified in equations (1) and (2) thus:

$$\begin{aligned}
 LGREV_t &= \sum_{i=1}^n \beta_i LGTEXP_{t-1} + U_{t1} \dots \dots \dots (1) \\
 LGTEXP_t &= \sum_{i=j}^n \beta_j LGREV_{j-1} + U_{t2} \dots \dots \dots (2)
 \end{aligned}$$

Where;
 LGREV denotes Local Government revenue, expressed in billion Naira;
 LGTEXP represents Local Government total expenditure, expressed in billion Naira;
 U_t is the error term.
 In line with the postulate of fiscal neutrality hypothesis which implies a separation between government revenue and expenditure, it is expected that LGREV and LGTEXP will not Granger-cause each other.

Results and discussion

4.1 Descriptive Statistics

According to the descriptive statistics in Table 1, the Local Government expenditure (LGTEXP) and revenue (LGREV) averaged ₦196.6480billion and ₦196.0315billion respectively which exceed their respective standard deviation values of 166.0021 and 165.0619. Hence, both variables could be described as being relatively stable around their mean value. LGTEXP ranges between a minimum of ₦4.742500b and a maximum of ₦451.7275b while ₦4.805000b and ₦452.5125b are the minimum and maximum of LGREV respectively. The p-value of the Jarque-Bera which is less than one percent led to the rejection of normality of LGREV and LGTEXP, thus indicating non-normality of the two series.

Table 1. Study variables’ descriptive statistics

	N	Mean	Min.	Maximum	Std. Dev.
LGTEXP	108	196.6480	4.7425	451.7275	166.0021
LGREV	108	196.0315	4.8050	452.5125	165.0619
	N	Skewness	Kurtosis	Jarque-Bera	Prob.
LGTEXP	108	0.1742	1.4187	11.7978	0.0027
LGREV	108	0.181	1.4441	11.4877	0.0032

Source: Author’s computation, 2021

4.2 Unit Root Test

Unit root test otherwise called stationarity test is an essential estimation process in time series data analysis. This is because the test aids researcher in determining whether the series are stationary or not and if stationary, the order of integration of the series. Unit root test also informs the choice of the actual estimation technique for the study. Therefore, in this study, the Augmented Dickey-Fuller (ADF) test of stationarity was employed to ascertain the order of integration of the series and the results of the test as presented in Table 2 reveals the variables to be stationary after first difference. Hence, both Local Government revenue and expenditure are integrated of order one, that is, they are I(1) series.

Table 2. Augmented Dickey-Fuller test

Variables	ADF test Statistic	Prob.	t-Statistic	Prob.
LGREV	-0.5803	0.8694	-10.4544	0.0000*
LGTEXP	-0.5739	0.8707	-10.4594	0.0000*

Note: * represents rejection of hypothesis of unit root in the variable at 1% level.

Source: Author’s computation, 2021

4.3 Cointegration Test

Since Local Government revenue and expenditure are I(1) series, a test of cointegration becomes necessary and therefore, the Engle-Granger cointegration test was conducted and the result reported in Table 3. According to the result of the cointegration test, the variables are cointegrated. This suggests that both Local Government revenue and expenditure in Nigeria have long-run relationship.

Table 3. Engle-Granger cointegration test

Dependent	tau-statistic	Prob.	Z-statistic	Prob.
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LGREV	-3.186789	0.0807***	-31.33064	0.0027*
LGTEXP	-3.173647	0.0830***	-30.87779	0.0030*

Note: *** and * Rejection of the null hypothesis that the Series are not cointegrated at 10% and 1% respectively.

Source: Author's computation, 2021

4.4 Granger Causality Tests

The Granger causality test suggests that the past values of certain variable is a predictor of the current value of another. Hence, as a condition for application of Granger causality test, this study found that both Local Government revenue and expenditure in Nigeria are cointegrated even though both are not stationary at level but until after first difference. This study therefore applies the pairwise Granger causality technique in testing the fiscal neutrality hypothesis by checking whether or not any causal relationship exists between Local Government revenue and expenditure in Nigeria. Table 4 which presents the pairwise Granger causality test's results indicates no causality between the two variables. This suggests that there is a disconnection between Local Government revenue and expenditure in Nigeria. In other words, there is separation between government revenue-generating machinery and those formulating the policy for implementation of expenditure at the LG in Nigeria. By thus result, the study therefore upholds the fiscal neutrality hypothesis at the Nigerian Local Government level. This study argues that LG revenue neither lead LG expenditure nor LG expenditure lead LG revenue in Nigeria.

Table 4. Pairwise Granger causality tests

Null Hypothesis:	F-Statistic	Prob.	Decision	Causality?
LGTEXP does not Granger cause LGREV	1.49848	0.1980	Do not reject	No
LGREV does not Granger cause LGTEXP	0.50428	0.7723	Do not reject	No

Source: Author's computation, 2021

Discussion of Findings

This study attempts to test empirically one of the four main strands of hypothesis on government revenue-expenditure nexus, that is, the fiscal neutrality hypothesis. The hypothesis is a hypothesis of institutional separation or independence which postulates a neutrality and disconnection between government revenue and her expenditure. Having ascertained the LG revenue and expenditure are integrated of order one via unit root test, the study found that there is long-run co-movement between government and revenue at the local government level in Nigeria. However, from the Granger causality analysis, this study confirms no causal relationship between LG revenue and expenditure in Nigeria in the study period. This finding is consonance with the a priori expectation of no causality between revenue and expenditure of the Nigerian Local Government and therefore lends credence to the fiscal neutrality hypothesis in the Nigerian Local Government. While this study focused on the Nigerian LG, dissimilar results of studies which focused on central/federal government found a unidirectional causality flow from government revenue to her expenditure (supporting the revenue-spend hypothesis) (Obioma and Ozughalu (2010), Ogujiuba and Abraham (2012), Yinusa et al (2017), Yinusa and Adedokun (2017) in Nigeria; Mehrara and Rezaei (2014) in Iran and Lojanica (2015) in Republic of Serbia). Other non-similar finding of a unidirectional causality flow from central government

expenditure to revenue (upholding the spend-revenue hypothesis) is reported in the studies of Richter and Dimitrios (2013) in Greece and Nwosu and Okafor (2014) in Nigeria; Kiminyei (2018) in Kenya. Moreover, the fiscal synchronization hypothesis (bidirectional causality between central government revenue and expenditure) was also confirmed by Mehrara et al (2011) in selected Asian countries; Babarinde et al. (2021).

Therefore, this study established an empirical evidence of a disconnection/separation between the expenditure framework and the revenue generation framework of the LG in Nigeria. This implies that changes in Local Government revenue does not induce changes in Local Government expenditure but machineries for both are not mutually inclusive or has no causality. This suggests that there is no interdependence between revenue and expenditure of the Nigerian Local Government. Rather each determining the other, revenue and expenditure framework is determined principally by economic growth goal set and other considerations by the Local Government in Nigeria. The policy implications of this finding are that there is a neutral, independent and zero causal relationship between government revenue and expenditure at the local government level in Nigeria. This study suggests Nigerian local government revenue decisions are made independent of her expenditure decisions and vice versa. It is long-run economic growth that determines the revenue and expenditure of government at the local government in Nigeria rather than revenue and expenditure determine each other.

Conclusion

This study tested the validity or otherwise of the fiscal neutrality hypothesis in the Nigerian Local Government, using quarterly data sets from 1993Q1 to 2019Q4. From the analysis using pairwise Granger causality technique, this study upholds the fiscal neutrality hypothesis in the Nigerian local government, having confirmed no causality between revenue and expenditure in the Nigerian LG. The policy implication of the result is that there is no interdependence between government expenditure and revenues at the Local Government in Nigeria. This seems to suggest that the Local Government in Nigeria does not makes its revenue and expenditure decisions concurrently but separately. It is high time that fiscal synchronization of Local Government revenue and expenditure be vigorously pursued by the government through various reforms and policies that will make Nigerian local government really autonomous particularly in her fiscal operations. LG fiscal autonomy should be realistically implemented such that the disconnection between their revenue and expenditure machinery is bridged. The decider of the use (expenditure) should also be actively and greatly involved in the sourcing for the revenue to fund the expenditure in order to ensure proper accountability. To this end, the Nigerian Local Government should avoid over-reliance on federal allocation, as a source of financing their operations. Furthermore, revenue officers and machineries at the Local Government should also be strengthened by the Local, State and Federal Governments through the proper and prudent implementation of the enabling laws.

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TAXATION OF DIGITAL ACTIVITIES: AN EVALUATION OF THE NIGERIAN APPROACH IN A GLOBAL CONTEXT

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Oluwafunmilayo Mary BANKOLE

Faculty of Law, American University of Nigeria,
Yola, Nigeria
funmilayo.bankole@aun.edu.ng

David O ADETORO

Faculty of Law, American University of Nigeria,
Yola, Nigeria
david.adetoro@aun.edu.ng

Abstract: *It is no longer a major news item that economic transactions are being conducted effortlessly online across the globe without any serious hindrance that was hitherto occasioned by geographical location across the globe. This development cuts across almost sector of the world economy: aviation, energy, shipping, commercial retailing, commodities, fashion etc. One of the notable consequence of this development is that both transacting parties and their host governments stand to make more income as a result of the likely increase in volume of expected transactions on the part of the transacting parties and the possibility of more revenue from taxation accruable to the government. Thus this surge in online business has led to a significant development digital economy in many countries. An effective digital economy presents many benefits for developing countries, especially Nigeria with a large population. This article examines the potentials of the Nigerian digital economy vis-à-vis its potential to contribute to generation of income via taxation. It then concludes that Nigeria stands to gain a lot from its growing digital economy but it requires establishment and maintenance appropriate structure and policy in order to maximize the potential benefits derivable from its digital economy.*

Introduction

In a functional and ideal society, taxation is the price citizens pay for government services whereby a government takes or keeps from its citizens an amount of property (money), calculated by various formulae, each year. At the same time or within that year the government provides or performs certain things for its citizens which services has a cost per citizen. Further, taxes are computed on the basis of income, wealth, purchases, and other measures which do not apply to everyone on a uniform basis. On the surface, taxation is seen mainly as a great weapon of gathering revenues by governments across the globe apart from its other sundries functions. However, this is not the whole truth. Rather tax is the most pervasive and privilege exercise of [police power by most states irrespective of their ideological foundations (Tiley 2005). and also a means of Taxation is a partway to developing a countries economy, this is due to the huge percentage of revenue generated from taxation. Unfortunately, the Nigerian government still lacks the ability to harness taxation as a medium for substantial revenue generation. Being that the failure of taxation in Nigeria is diverse, this paper will be evaluating the Nigerian approach of taxation and how it can be maximized in a global context.

Definition of tax

Taxation has been given different definition solely to underscore its importance and thereby justify its various consequences. The Oxford English Dictionary defines a tax as ‘a compulsory contribution to the support of government levied on persons, property, income, commodities, transactions etc, now at a fixed rate mostly proportionate to the amount to which on which the contribution is levied’.

According to Prof. Adams, tax was comprehensively defined as: “*A tax is a source of derivative revenue, from the angle of the citizen a tax is a coerced payment, from the administrative point of view it is a demand for money by state in conformity to established rules from the point of view of theory a tax is a contribution from individuals for common expenditure*” (Moheeth n.d.).

According to Prof. Seligman, tax was defined as: “*A compulsory contribution from the person to the government, to defray the expenses incurred in the common interest of all without reference to special benefit conferred*” (Moheeth n.d.).

Thus, tax is defined as: “*A charge usually monetary imposed by the government on persons, entities, transactions, or property to yield public revenue*”(Gamer 2004, 1594).

Features of Tax

Technically, there are mainly three features of tax, there include:

- It is imposed by government,
- It is for public purposes,
- It is compulsory, (Unanaowo 2018).

Objectives of Tax

The number one classical function of the tax system is to generate revenue to meet government diverse expenditure. This is readily seen as an alternative to other means of raising revenue by the government. For instance, the government might commandeer resources, or print money or borrow money from international lending agencies, taxation is considered more efficient and or more just than these than taxation (Tiley 2005). According to Adams taxation is the most important source of revenue for modern governments, typically accounting for ninety percent or more of their income. More often in Nigeria since he past thirty years, taxation has been accepted a compulsory levy by government through its various agencies across all tiers of government. Essentially it is used to raise revenue whereby the government imposes various source of revenue such as the payment and collection of tax to render various economic and social activities (Unanaowo 2018).

In the not too distant past, tax advocates were fixated on wealth distribution. This objective has two large offerings. The first was the doctrine that taxation should primarily be based on the ability to pay which is hinged on the effectiveness of the operation of market forces. The second offering is hinged on the assumption or theory that the existing distribution was unjust or unfair and therefore should be discarded or reformed so as to conform to contemporary standards. However, it is now conventional wisdom that wealth redistribution via taxation is not only for increasing the rate of taxation or levying of new taxes rather it could be used to either reduce the rate of taxation or abolish tax allowances.

This situation is much more prevalent in western countries with established social benefits system (Thompson 1994).

Another objective of taxation is to ensure economic stability. Taxation can be seen and used as a tool for achieving economic stability, due to the fact that taxation affects consumption and production. The federal government can imbibe the use of taxation to control inflation and deflation of the economy (Hahu Zone n.d.). Furthermore, It aids the creation of job opportunities. In this case the government gives tax concessions or exemptions to small entrepreneurs and labor intensive industries that might lead to the minimization of the countries unemployment statutes (Hahu Zone n.d.). Moreover, taxation is also a powerful tool often used to change behavior or for social transformation. It is not just a matter of economics or finance. Rather it could be used for specific goals or objectives. For example, government could use to control consumption of certain products seen to be harmful to the consumer and invariably on the economy because of their public health cost implications. For instance, large and continual consumption of cigarettes and alcohol is regarded as a big drain on national resources. A study in Canada in 1999 says 'misuse of alcohol, tobacco and illicit drugs cost more than \$18.4 billion in Canada in 1992, representing \$649 per capita or 2.7% of GDP (Single E, et al. 1998). One way the government can reduce the consumption of harmful substances or products is to imposed or levy heavy excise tax on the harmful products for example cigarettes, alcohol and other products that are detrimental to people's health (Single E, et al. 1998).

In addition, it enhances the standard of living. The government could increase the standard of living of the public by distributing tax concessions to certain essential goods (Single E, et al. 1998). Part of revenues generated from taxes are often used for provision of public goods. A notable example on this point is the establishment of the Education Trust Fund in 1993 to provide supplementary support to all levels of all level of public tertiary institutions with the main objective of using funding alongside project management for the rehabilitation, restoration and consolidation of Tertiary Education in Nigeria Act No 7 of 1993 as amended by Act No 40 of 1998 (now repealed and replaced with Tertiary Education Trust Fund Act 2011). The principal source of income available to the Fund is the two percent education tax paid from the assessable profit of companies registered in Nigeria. The corporate objective of the fund is as follows: "Provide funding for educational facilities and infrastructural development Promote creative and innovative approach to educational learning and service .Stimulate, support and enhance improvement activities in the educational foundation areas, like Teacher Education, Teaching Practice, Library Development and Special Education Programmes Champion new literacy enhancing programmes." Further, the focus and administration of the Fund has continued to be subjected to criticisms. Its major criticism is that the Fund is not accessible by private tertiary institutions (The Nation 2020).

Furthermore, taxation is also an efficient regulatory tool employed by governments to steer private sector activity in the directions desired by governments. In this instance, it equally serve both short term and long term purposes (Avi-Yonah 2006). For instance in order to discourage and equally attract domestic production of certain goods in a country, the government can increase the importation taxes on such goes and also provide specific tax incentives, allowances or holiday taxes for any business intending to undertake production of such goods locally. For example, the Companies Income Tax Act Cap C21, LFN 2004 ("CITA"), permits deduction, from taxable income, of expenses incurred wholly

exclusively and necessary in the promotion of a business venture, provides for capital allowances for qualifying capital expenditure incurred in the course of doing business (as provided for under the Second Schedule to the CITA) and further grants tax exemption for interest payable in relation to foreign and agricultural loans invested in Nigeria under certain circumstances, as provided for under the Third Schedule (pursuant to Section 11) to the CITA, amongst other incentives.

While it is not in doubt that taxation has impacted significantly on Nigeria's economy in general, it is equally not in doubt that the tax system could be improved for better accountability and impact on the economy (Afuero and Okoye 2014).

Tax system in Nigeria

The Nigerian tax system consist of tax laws, policy and administration (Unanaowo 2018). The focal aim of the (Unanaowo 2018)Nigerian tax system is to directly contribute to the wellbeing of Nigerians through improved policy formation and indirectly through appropriately utilizing tax revenues generated for the public (Unanaowo 2018). For a country to enjoy a good tax system, it must have good laws which will birth good tax policies, and when implemented by skilled tax administrators; will result in the increase of tax revenues (Unanaowo 2018). Some features of a good tax system include; its flexibility, fairness, economic effectiveness, simplicity, less cost of administration and etc.

Types of Tax

In Nigeria, taxes are classified into two categories, to wit: methods and by incidence.

The *methods* include but not limited to the following:

Regressive tax: This is applicable in cases where the tax payable decrease or reduces as the taxpayer's income increases (Unanaowo 2018). Thus, this is seen as reducing inequalities in income distribution (McLure, Neumark and Cox 2020).

Proportional tax: Here, the same relative burden of tax is imposed on all taxpayers. This happen in instances where the tax liability of an individual is in equal proportion to his or her income (McLure, Neumark and Cox 2020).

Progressive tax: This is applicable to cases where an increase in income results to the increase in the tax payable (McLure, Neumark and Cox 2020).

While by *Incidence*; include but not limited to:

Direct Tax: This are simply tax that are imposed on people, which is based on the taxpayer's ability to pay as measured by income, consumption, or net wealth (McLure, Neumark and Cox 2020). There are various types of direct tax, they include but are not limited to the following:

Personal income tax: This type of tax are usually imposed or levied on the total personal net income of the taxpayer's (which can either be an individual, a family or couple) in excess of some stipulated minimum (McLure, Neumark and Cox 2020). Thus, circumstances that influence the ability to pay such tax is taken into account (such as finance issues resulting from illness, family status and so on) (McLure, Neumark and Cox 2020). However, in cases where there is an increase in income, it also results to the increase in the tax payable.

Taxes on net worth: Here, tax is imposed on the total net worth of the taxpayer, that is, the value of his or her assets minus his liabilities (McLure, Neumark and Cox 2020). In relation

to the taxpayer's income, his personal circumstance can be taking into account (McLure, Neumark and Cox 2020).

Indirect Tax: These are taxes imposed or levied on goods and services. In other words, they are taxes levied on the manufacturing, production or the consumption of goods and services or on transactions, inclusive of importation and exportation (McLure, Neumark and Cox 2020). Examples of indirect tax include but are not limited to the following; value added taxes (vat), stamp duties, excise duties, custom duties and so on (Unanaowo 2018).

What is digital taxation

Digital tax is: *“A tax applied to digital business activities, this includes both digital-only brands which deal with virtual commodities and the services traditional market players use while transforming their businesses with digital technologies (Payspacemagazine 2019).”*

What is Digital Economy

The Base Erosion and Profit Shifting (BEPS) Action 1 defines digital economy as: *“one characterized by an unparalleled reliance on intangible assets, the massive use of data (notably personal data), the widespread adoption of multisided business models capturing value from externalities generated by free products, and the difficulty of determining the jurisdiction in which value creation occurs (OECD 2014).”*

Classification of digital economy

Digitally ordered services: involves transactions that are digitally ordered, which includes the transactions of goods and services, that reflect e-commerce (OECD 2014). Platform enabled services: involves peer to peer services that aid the transacting of goods and services (OECD 2014). Digitally delivered transactions: involves the capturing of services and data flows which are then delivered either as web streaming products or digital downloads (OECD 2014).

Features of digital economy

Mobility of intangibles which is relied upon by the digital economy, users and business functions.

- Reliance on data, especially “big data.”
- Network effects.
- Usage of multisided business models.
- Tendency in relation to monopoly or oligopoly in certain businesses who rely solely on network effects.
- Volatility as a result of rapid entry of evolving technologies (OECD 2014).

Challenges faced by digital economy in Nigeria

The spread of digital economy has introduced benefits, such as employment, and human wellbeing etc. At the same time, it has made room for more challenges for policy makers. The major challenge policy makers are facing is the possible risk for Multinational enterprises (MNEs) to move their profits from the jurisdiction (country) where the economic activity took place. This erodes the values created in such jurisdiction. The global scope of digital businesses raises the question on how taxing right on income gotten from

cross-border trade, should be allocated among participating jurisdiction to address under/over taxation (Obayomi, Idowu and Adegite 2019).

At the mandate of G20, the organization for economic co-operation and development (OECD) published an Action Plan on base erosion and profit shifting (BEPS) in July. The Action Plan identifies fifteen (15) actions to address BEPS and sets deadlines for those actions (OECD 2014, 24). It is worthy of note that the challenges faced by digital economy is not peculiar to Nigeria. However, several countries have taken steps to fix the challenges facing digital economy:

Israel introduced a significant economic presence (SEP) test that is only applicable to foreign companies which reside in countries that have no double tax agreements with Israel (Obayomi, Idowu and Adegite 2019). United Kingdom introduced 25 percent Diverted Profits Tax on profits that are said to be diverted away from the UK (Obayomi, Idowu and Adegite 2019). An estimation of 1.5 billion pounds will be generated from taxation in the UK (Imosemi and Okwu 2019).

Way forward

The Nigerian government needs to ensure the effectiveness of digital economy for the purpose of income tax. This can be achieved if the scope of fixed base is expanded in section 13 of the corporate income tax act (CITA). When done, the Nigerian government revenue will be increased (Isiadinso and Omoju Emmanuel, 2019).

- Adopting the best practices internationally in relation to taxing the digital economy (Imosemi and Okwu 2019).
- The inclusion for the taxability of players in the existing laws of the Nigerian economy (Imosemi and Okwu 2019).
- Introducing a simplified registration process for companies in the digital economy (Imosemi and Okwu 2019).

Conclusion

With an evolving digital economy, it is apparent that taxing the digital economy has a huge impact on revenue. Nigeria has so much to gain in taxing the digital economy due to its huge populace. However, it is important, that the Nigerian tax authorities find innovative ways to ensure that the digital economy is taxed aptly. Thus, cutting-edge ideas are to be introduced toward ensuring the effectiveness of our tax laws and compliance with BEPS measures with regards to the Nigerian economy.

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A PERSPECTIVE ON THE RECENT THEORETICAL AND EMPIRICAL FINDINGS REGARDING THE PONZI SCHEMES

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Eldad BAR LEV

Doctoral School of Economics and Business Administration,
“Alexandru Ioan Cuza” University of Iasi
Iasi, Romania
eldaddl@bezeqint.net

Abstract: *This article aims to define what a Ponzi scheme is, to present the known types of Ponzi scams and how they operate, focusing also on the legal implications for Ponzi scams, as well as on the warning signs for the potential victims and authorities. The paper adopts both qualitative and quantitative research methods. In achieving the objectives of the study, data were sourced from secondary materials, i.e. relevant books, journals and internet materials.*

Keywords: *Ponzi scheme, scams, financial fraud, white-collar criminality.*

Introduction

Phelps and Rhodes (2012) define Ponzi scams for U.S. law enforcement, according to the following criteria:

- Investors have deposited funds.
- The debtor (offender) presented himself to investors in a false manner as someone who conducts legal business activity, but in fact either never conducted such activity at all, or engaged in it only to a limited extent.
- The alleged business activity of the debtor yielded very little profit or did not yield any profit at all.
- The source of the payments transferred to the initial investors in the fraud is in cash deposited in the fraud by new investors.

The main characteristic of a Ponzi scam is that funds presented to investors as profits or as the return on their investment, are in fact the fund money of investors who invested in that fraud later. This process involves persuading victims to invest using false claims that it is a secret idea that yields excessively high profits. Charles Ponzi, for example, claimed that he was investing in a financial product issued by the Postal Authority, when in fact the authority did not hold the product to the extent promised by Ponzi (Cohler, 2017).

The FBI defines a Ponzi scam as an activity that guarantees a high return or dividends that are not available in traditional investments. Instead of investing the victims' money, the crooks pay "dividends" to investors who previously joined the activity using the first investors' money (FBI, 2020). The scam is often exposed when there is a slowdown in the financial markets, investors stop their activities and the whole scam collapses (Cohler, 2017).

Springer's research also deals with the definition of what a Ponzi scam is (Springer, 2020). Her study does not classify multi-level marketing (MLM) pyramid scams as a Ponzi

scam, unless it has been classified as Ponzi scams by federal authorities in the U.S. The difference between the two scams (Pyramid and Ponzi) lies in the fact that in a network marketing pyramid, there are "layers" of participants who are themselves responsible for recruiting new participants, while in a Ponzi scam, there is a lone principal offender who controls the entire operation or a regular group of criminals who do so.

Ponzi scams are not classified as a specific crime, but are defined by the U.S. Securities and Exchange Commission (SEC) as a type of fraud, and its dealers violate many regulations and laws, including non-registration as an investment company, as an investment advisor or as a stockbroker.

Another characteristic of a Ponzi scam is entrepreneurship - the criminals create opportunities for themselves to do business, usually within an illegal company, and also hold senior management positions such as CEO and CFO. Springer's study (2020) distinguishes between white-collar offenses - which are defined as such based on the environment in which they occurred, for example, in a large company - and white-collar offenses that are defined as Ponzi scams, according to the following characteristics:

- *The nature of the offense*: Taking money from victims who joined the investment at a later stage to pay the victims who joined at an earlier stage.
- *Criminals*: There are criminals or entrepreneurs.
- *Business Association*: There is a business entity, a limited company, or an investment house.
- *Number of victims*: There are more than one victim.
- *Damage*: Loss to victims in excess of \$100,000 cumulatively.

Mapping Ponzi scams by categories

Springer (2020) conducted the most comprehensive review in the United States of all Ponzi scams recorded in the databases of federal bodies accessible to the general public. She reviewed only those cases defined by federal bodies as Ponzi scams. The data was reviewed from databases of the Securities and Exchange Commission (SEC), the FBI, the Department of Justice, the State Attorney and the Postal Authority. This survey examined 1,359 scams that took place in the years 1962-2020.

The criteria for selecting the cases were: (1) the use of the term "Ponzi" in federal documents, (2) documentation in the databases of federal bodies accessible to the general public, (3) cases in which administrative steps were taken by the Federal Civil Agency and / or cases in which there was a conviction in criminal cases (Springer, 2020). Many of the Ponzi scams reviewed in Springer's study (2020) belong to more than one category. The study presents three "supergroups" of Ponzi scams:

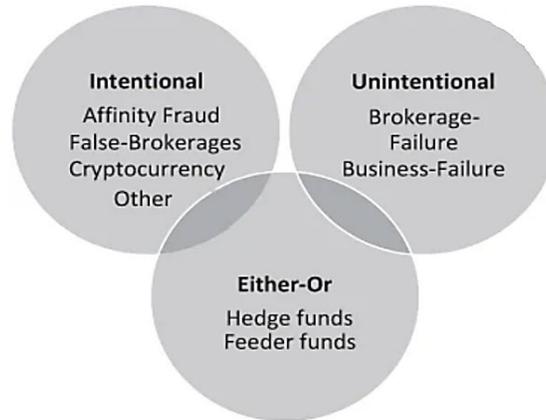
- *Intentionally committed scams.*
- *Scams committed unintentionally in the first place.*
- *Ponzi scams that are committed intentionally in the first place.*

In most cases, the Ponzi scams were committed intentionally in the first place and were well planned. The criminals are intelligent, well-articulated and sometimes described as sociable and charismatic.

The main characteristic of Ponzi scams is that funds presented to investors as profits or as repayment of the fund they invested, are in fact the fund money of investors who invested in the fraud later. Intentionally committed Ponzi scams are most often discovered

while investigating another aspect of the scam, such as tax evasion, unlisted shares, money laundering or mailing scams.

Fig. 1. The supergroups and subgroups of Ponzi scams



Source: Springer (2020: 37)

The perpetrators create a false representation of a legitimate and successful business to attract victims. They produce false professional material as well as fictitious financial reports that seem credible, and the victims are convinced of the truth of their words. They specialize in issuing false documents, for example, annual reports, account statements and financial statements.

The criteria for U.S. law enforcement agencies to determine whether or not a Ponzi scheme was committed intentionally in the first place are:

- Whether the investment house is legally registered with federal agencies?
- Did the business function legally and then fail (business failure)?
- Was the investment house legally registered with the Securities Authority or the CFTC, and was the entrepreneur authorized to engage as an investment agent or investment advisor. If so, there is documentation in these entities that the investment house did carry out trading as promised and in fact made failed transactions. In this case, the fraud will be defined as one that occurred following a failed investment house. In the eyes of lawmakers, despite the fact that Ponzi scheme entrepreneurs do not usually make investments in their victims' money, the very promise on their part to do so while they are not legally authorized to do so is considered an offense.

Types of Ponzi scams

3.1. Illegal investment houses: False Brokerages

Investment houses that were not registered with the SEC or the CFTC (Commodity Futures Trading Commission), but nevertheless acted as investment companies, presented themselves as licensed by these entities are considered false brokerages. Some have argued to investors that they are not required to register and may have even made transactions for

them. But in all cases, the perpetrators presented themselves as investment agents, traders, or licensed investment advisers, even if not on behalf of the SEC and similar federal regulatory agencies. There were some that were indeed registered as state regulatory bodies, but did not complete the registration with the federal bodies. Only 12% of the subjects in this study (Springer, 2020) were legally registered with federal bodies.

3.2. Affinity Fraud: "Community-based Fraud"

The entrepreneur seeks prey on populations with which he has some affinity, and the deception is made possible due to the trust placed in him by the victims due to their identification with him and the commonality between them and the crook. Examples of this are communities to which the affiliation is based on: profession, nationality, religion, ethnic origin, sexual orientation, physical disabilities, etc. Immigrants have also fallen victim to offenders who are also immigrants, with the common language and historical background being the elements that create the affinity between them (Springer, 2020) (friends and family members are not included in this category).

Most of the affinity scams examined in the study occurred within religious organizations, and are called "religion-based scams." Their numbers are high, but not all of them report fraud to the authorities due to the victims' refusal to believe that they were indeed deceived on the basis of their religious beliefs, and even though some of them were "treated" within the organization itself. In some cases, there was a double link between the offender and the population that fell victim to the fraud, for example, on the basis of religion and ethnic origin together, or religion and nationality together.

133 of the cases reviewed in Springer's study, (2020) were defined as affinity scams. 91 were on the basis of religion, 45 on the basis of nationality, 25 on the basis of ethnic origin, 6 on the basis of occupation, 2 on the background of the deaf community, and 1 on the background of sexual orientation.

3.3. Ponzi scams based on distributed currency: Cryptocurrency Ponzi Schemes

The decentralized currency market has been gaining momentum since it first burst in 2017, and includes cyber, digital, virtual, electronic and bitcoin currencies. In general, this currency is perceived as a Ponzi scheme by many of the leaders of the financial industry and government officials, because it is an artificial market, including currencies that are not tangible and not produced by governments. These currencies are illegal for commercial purposes and no country is a guarantor of their value. This market is a fertile ground for Ponzi scams - no enforcement agency oversees its operations, and investments in it are made anonymously and online by investors from all over the world. Therefore, law enforcement agencies have difficulty investigating and applying state laws to scams in the decentralized currency market.

3.4. Ponzi scams committed unintentionally in the first place

The entrepreneur or partnership runs a successful business or investment house, but then experiences some financial problem, following which the entrepreneur or partnership is forced to survive by committing fraud (Dorminey *et al.*, 2012). The business entity

started as a legal business, and there was no initial intention on the part of the owner to commit fraud. But they were forced, in their view, to commit fraud for the business's survival. They are aware of the fact that this is an offense, but believe that they will generate profits and that they will be able to return the money to investors.

3.5. Ponzi scams following a failed investment house

This type of Ponzi scheme was first committed following the failure of legal business entities, investment houses, investment advisers, commodity pools and hedge funds, due to the financial crisis or previous financial events. The entrepreneur decides to "borrow" money from new investors to pay the profits he promised to previous investors and also to continue to run the business. Unlike fraudulent acts committed in the first instance, the offenders in these cases were legally registered with federal bodies and were allowed to engage in their field.

The Financial Crisis Inquiry Commission (FCIC) ruled that the main cause of the financial crisis was the "subprime mortgage" crisis, which led to the failure of businesses that invested large sums of money in the mortgage-related stock market, where they failed to make their investment on time and suffered losses.

Ponzi criminals do not really invest the money of their victims and are therefore exempt from registration, and as a result they are not subject to any supervision as applies to registered investment houses. 74 of the cases reviewed in Springer's study (2020) were classified under this category.

3.6. Businesses that failed

54 of the cases reviewed in Springer's study (2020) were classified under this category. In these cases, the owner of the business has acquired assets or engaged in a business activity other than the financial market, and even made profits before becoming a Ponzi scam. Most of the scams occurred during the real estate bubble and the financial crisis. Many of them dealt with the real estate and mortgage industries.

3.7. Feeder Funds

Often, existing Ponzi scams attract other investment entities, such as hedge funds in the securities market and stock market futures. These entities are referred to as "Funds of Funds" or "Feeder Funds". This is a rather complex set up which investors and the authorities find difficult to monitor. Many times, these will be hedge funds. Victims who invest their money in feed funds are not necessarily aware of this. For example, Stephen Greenspan invested in a fund of funds, which then invested in Madoff's.

In some cases, the main owner of the feed funds was not prosecuted because he was unaware that he was investing in a Ponzi scheme. 27 of the cases reviewed in Springer's study (2020) were classified under this category.

3.8. Hedge funds and commodity reserves

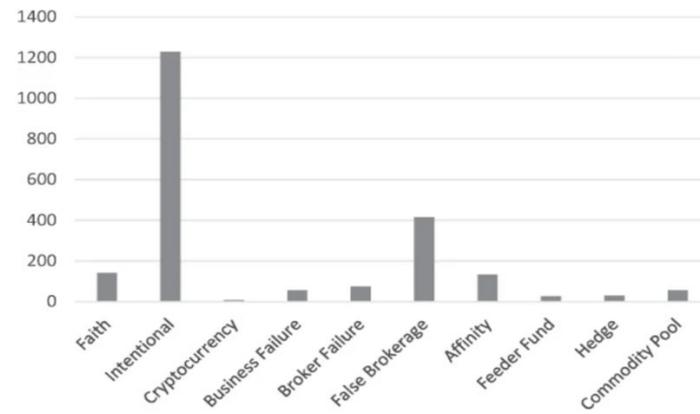
These hedge funds are investment entities subject to legal registration with the SEC or CFTC. Investors' money is deposited in the fund and they take part in the profits and

losses of the fund, in accordance with the percentage of their investment in the fund. Hedge funds are particularly sensitive to market volatility and are considered as a high-risk investment, and indeed some fail after failing to raise the necessary capital (Johnson, 2010).

These funds are set up by private investment groups, whose managers set a high entry threshold in terms of the financial status of the fund's investors (equity of over \$ 1 million). They are not required to register with the SEC, and are therefore a perfect partner in Ponzi scams. In Madoff's case, many feed funds invested in the scam he committed, although it is not known how many of them did so knowingly and how many were actually victims. In some cases, the hedge fund was a Ponzi scam in the first place, and in other cases, it was legal and then fell victim to a scam that seemed credible and actually served as an unknowingly feeding fund. 29 of the cases reviewed in Springer's study (2020) were hedge funds.

Commodity reserves are funds that invest the money of a group of investors as one piece, and are supervised by a regulatory body (the CFTC). Similar to hedge funds, in commodity reserves, investors share in the profits and losses of the investment made by the portfolio manager. But unlike hedge funds, there are no minimum requirements regarding the financial status of the participants in the pool. In many cases, even though it was not legally registered, the developer claimed the business was legal and presented false documents as a proof. 56 of the cases reviewed in Springer's study (2020) were classified as stockpiles of goods.

Fig. 2: A comparison between the preference for the different types of Ponzi scams



Source: Springer (2020: 63)

The graph (Fig. 2) shows a comparison between the different types of Ponzi scams reviewed above. The vast majority are scams committed intentionally - in about 1,225 of the cases. 415 of the cases were scams committed as a result of failed investment houses, and they account for about a third of the cases defined as intentional in the first place. 85 scams were based on hedge funds and commodity reserves. The frauds committed unintentionally in the first place - failed businesses and investment houses - accounted for 128 of the fraud cases.

The circumstances for carrying out a Ponzi Scheme

Jory and Perry, Professors of Economics and Finance at the University of Michigan School of Management, performed a critical analysis of Ponzi scams. They point out that the circumstances and environment in which Ponzi scams thrive are (Jory & Perry, 2011):

- *When there is an asset bubble or a sharp positive acceleration in the economy.*
- *In a market where the number of investors is high.*
- *In an environment where there is access to financing from multiple savings or from the possibility of obtaining credit.*

On the other hand, the chances of Ponzi fraud being exposed increase when the above elements are reversed, i.e., during a period of economic recession and / or when investors stop their activities and / or during a period of credit squeeze. This was the case, for example, in 2008-2009, when many Ponzi scams were exposed following an economic recession.

Who are the Ponzi criminals and which common traits characterize them

Bhattacharya (1979) counts 3 components of Ponzi scams:

- *The offender convinces others about an idea to invest in it.*
- *The offender promises high returns.*
- *The offender keeps his promises in the first stage and transfers money to investors in order to acquire their trust.*

Jory and Perry (2011) add the element that refers to the fact that offenders often present investments as a sophisticated and complex array. Ponzi criminals promise profits at a level that goes against any economic principle. It is likely that Ponzi criminals are charismatic salespeople, who manage to market their wares with great talent. They are renowned in their field and are involved in the community, Ponzi entrepreneurs being known as generous donors to charities, educational institutions and election campaigns.

Initially, the offenders address audiences who are socially or professionally identified with them. The method they use is by psychologically influencing potential investors, as opposed to creating a false representation of false facts - taking advantage of the trust the victims place in them due to the common background between them and the perpetrators. However, when criminals need more victims to continue the scam, they will search for more victims who do not belong to the same original identification group. Family members or friends of the entrepreneur are responsible for the management of the scam and usually are not substituted due to the need to continue hiding it.

Jacobs and Schain define the elements that make a person a Ponzi scheme criminal and indicate the urge to be in control; this urge is defined as a desire for complete and full control of everyday events, and characterizes many white-collar criminals. Due to the illusion that they control what is happening, these criminals feel overconfident in their abilities even in luck-dependent situations (Piquero *et al.*, 2005), and as a result, sometimes take particularly high risks.

They cite the theory of neutralization - most people believe in the rule of law and act according to social norms. They refrain from committing criminal activity, contrary to these norms, due to the feelings of guilt and shame that accompany it. Therefore, criminals justify their actions in a variety of neutralization techniques that neutralize guilt, and

surround themselves with others who share this perception. Neutralization techniques include (Sykes & Matza, 1957):

- *Denial of responsibility and blaming others for their actions.*
- *Denial of the damage, for example, when the victim had an insurance plan that covered the economic damage caused to him.*
- *Denial of the victim, for example, on the grounds that the victim is an enemy or an unwanted entity.*
- *Condemnation of the accusers, that is, an appeal against the authority or legitimacy of the law enforcement agencies.*
- *Higher loyalty to other parties, for example, engaging in risky activities out of loyalty to friends.*

Legal implications for offenders

When the fraud collapses, whether due to its discovery or because the entrepreneur has failed to recruit new investors with whose money he would pay to their predecessors - the law and enforcement authorities enter into the picture. The victims are demanding their money back, and the offender is filing for bankruptcy as an inevitable part of the whole process. An in-depth investigation is being conducted by the authorities and an assessment is being made as to the extent of the money stolen from the victims as part of the fraud. Subsequently, legal proceedings are initiated such as punishment of the offender and an attempt to return the money stolen to their owners.

The SEC (US Securities and Exchange Commission) has the authority to monitor Ponzi scams and prosecute its perpetrators (Cohler, 2017). Following the exposure of the fraud, the SEC initiates legal proceedings against its developer. A trustee is then appointed whose job it is to try to recover back lost funds, in order to return them to creditors and investors. It is rare that only the fraudster will bear the consequences, and there will usually be other factors that may carry them. The main reason for this is their disregard of warning lights and proper inspection, and/or their activity as fraudulent funds. These factors are (Jory and Perry, 2011):

- Any person or entity that has poured money into fraud ("feed fund"), even unknowingly. This is especially true in the case where the feed fund has received funds from others and has not performed a proper inspection or ignored warning lights.
- The bank where the offender committed the fraudulent activity - because the bank had access to the offender's accounts and may even have been aware of exceptional activity within their framework.
- Investment Bank - If the offender served as an investment agent, raised financing, was an asset manager, set up investment accounts or had access to marketing materials.
- Organizations that have received donations from the offender - may be forced to return the donations.
- Funds in hedge funds that are suspected of conspiring with the developer or were aware of the fraud - the SEC may prohibit them from working in the investment market again.
- Family members - Their assets may be frozen and / or confiscated.

In 2020, the Securities Authority carried out 715 enforcement actions against individuals and entities. 405 of them were initiated by the Authority itself, that is, they did not constitute a continuation of existing legal proceedings. Segmentation of the enforcement areas were: in the area of securities (32%), investment and investment consulting companies (21%), various financial statements (15%), transactions through an investment agent (10%) where a large part of the securities enforcement activities are considered enforcement against Ponzi scams (Ogden-Glazer-Schaefer, 2020).

Prevention and warning signs

Many entities issue warnings to the public and tools for detecting Ponzi scams in order to raise awareness of securities fraud. The FBI, for example, warns the public against illegal securities activities, such as pyramid and Ponzi schemes, forex scams, hedge fund scams, etc. It also defines the characteristics of Ponzi and pyramid scams; high yield returns and down payment scams. The FBI encourages citizens to exercise discretion, request details and information, check whether a complaint has been filed with the regulator against the company or developer, and file a formal complaint in the event of a fraud (FBI, 2019).

Benson and Simpson (2009) enumerates a series of warning lights for potential victims of Ponzi scams: a promise of high returns or high performance from competitors on a regular basis; Vague explanations from investment advisers; Confidentiality or non-disclosure of information; Lack of decentralization among business executives; Excessive enthusiasm about investing; Introducing celebrities as participants in business activities; The company's accountant does not specialize in its field of business (Benson & Simpson, 2009; Jacobs & Schain, 2011). In addition to all that has been mentioned, the SEC also mentions the use of secret or particularly complex strategies. Madoff, for example, was quoted as saying to potential victims: "If you invest in me, you must not reveal to anyone that you have invested in me."

Additional warning signs will be: high profits with low or zero risk, which is inconsistent with the inherent high risk in investments that yield high profits; Frequent recurrence of fixed-income gains, which is incompatible with the natural volatility of the investment market; Investments that are not legally registered, and therefore it is also impossible to test the reliability of the company or the products offered for investment; Unlicensed sellers; Secret and complex strategies; Account management irregularities; Difficulty in making profits, which indicates an attempt on the part of the Ponzi criminals to keep investors in the scam (Ogden-Glazer-Schaefer, 2020).

Conclusions

In fact, out of all the scams reviewed, only in a few cases was any investment or business activity actually made. In most cases, no financial activity took place in reality. In some cases, although the fraud was defined by the authorities as a "Ponzi scheme", it also included other offenses, such as mortgage fraud, insurance offenses, banking offenses and tax offenses. The criminals cheated both private victims and banks, official institutions, pension schemes and insurance companies.

In most of the scams, the victims were presented with an investment instrument, or a combination of instruments, such as securities, bonds and commodities. A large part of

them were presented as a combination of investment in both mortgage and real estate, mortgage only or real estate only - but no investment in practice. Some of the scams that took place during the housing bubble period (2002-2006) actually started as a failed legal business, but most of them arose from the outset as Ponzi scams.

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PREDICTIVE MODELS APPLIED IN SPORTS MANAGEMENT – LITERATURE REVIEW ON RESEARCH TRENDS

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Irina-Cristina COJOCARIU

Alexandru Ioan Cuza University of Iași,

Iași, Romania

cojocariu.irina96@yahoo.com

Abstract: *In recent years, numerous studies have been conducted to obtain by extracting the most accurate estimate of the main parameters in a given field. The techniques were diverse, and the main purpose was to identify how information can become useful knowledge. My area of interest, sports prediction, is constantly evolving, so many organizations have begun to focus on these methods that can provide them with valuable data. Therefore, this article is actually a literature review on how sports data is exploited. On this basis, I can present an overview of what has been studied, research proposals, topics addressed, algorithms and technologies used and future opportunities. Analysing these discoveries I want to offer a mining potential in this field and to attract as many researchers as possible to research the subject of sports predictions.*

Keywords: *Sports analysis, prediction models, prediction of ticket sales, match results*

Introduction

The concept of prediction captures a new facet of the digital age that facilitates revenue growth in various fields. Sports prediction is usually treated as a classification problem, with only one class (win, lose or draw) to be predicted Prasetio and Harlili (2016). The use of a structured experimental approach to the problem of predicting sports results is useful for obtaining the best possible results with a data set. Predictive models can also be used to build data products, for this purpose there is a system of recommendations that could help clubs make different decisions. Scientific research has not only tried to identify a model applicable to a sports club. After identifying the framework, the researchers tried to generalize the model so that it could be used by as many clubs in different countries of the world. In this article I want to understand how the prediction of results is thought and the generalization of predictors so that they can be used on a large scale. Moreover, I will identify which are the main ones directions regarding sports analysis and what are the models, respectively the variables used in the analysis.

Research background

The beginnings of sports analysis focused mainly on the analysis that referred to the proceeds from the sale of tickets to matches. In this regard, I identified a two-way specialized studies: event management (which includes analysis of ticket sales, participation of fans in stadium matches) and sports performance of players. The first category can be divided into two other directions as follows: the analysis of tickets sales at matches and the presence of fans at the stadium. The presence at the stadium is a major source of income for all sports teams, theoretical and empirical research on the demand for participation has been an integral part of the sports economy. The two oldest empirical

studies of determinants were made in the 1970s by Noll (1974) and Demmert (1973). Each study carefully explained a variety of factors that could change demand, including control variables for local income, the age of the stadium, the substitutes of availability, the success of the franchise and the population of the local market.

Many studies have been conducted on participation in matches. It will be noticed that most of them are econometric studies whose objective is to highlight which are the factors determinants of demand. As for the variables analyzed in order to obtain as high an accuracy as possible, the number of tickets that would be sold for a match, the research shows that the number of points scored by home and away team in the previous five matches is taken as a significant factor for participating in matches. And in 2007, in another article in the domain are investigating the impact of big players that are proving to have an impact on increasing match attendance (Brandes et al., 2007). As we could observe at the level of studies there are two types: controllable variable (opponent, match day, ticket price) and variables that cannot be controlled (weather, atmospheric pressure, the wind). And, for this reason, it will be interesting to obtain information about these variables and whether there are really significant connections with total receipts from ticket sales to matches.

Since the pandemic affected the participation of the fans in the matches played at the stadium, I turned to another direction that can be analyzed - the performance of the players. Another less analyzed direction is the prevention of injuries. This side requires a history of players which is difficult to centralize without digitization. Rossi et al., (2018), using variables such as position, age, height, weight, gps coordinates, but also variables related to distance, speed, number of previous injuries and previously played matches analyzed the predisposition of 26 players in depending on the variables mentioned above. On the other hand, another study (Bongiovanni et al., 2020) using variables such as anthropometric features corrected arm muscle area, arm muscle circumference, right and left suprapatellar girths applied for the analysis of a football academy in Italy focused on physical performance prediction. Also in this direction, I included another research (Dijkhuis et al., 2021) to which we add the most replacements in the 50th minute, but also in the 60-90 interval, position, acceleration, energy, distance cover, distance in speed category, energy expenditure in power category.

Another facet of sports analysis is the accessibility of data that show the performance of football has facilitated recent advances in soccer analysis. The so-called football journals (Luke et al., 2018) which capture all the events that take place during a match, are one of the most common data formats and have been used to analyze many aspects of soccer, both to the team (Cintia et al., 2016) and individual levels (Cintia et al., 2015). Of all the open issues in soccer analysis, the data-based assessment of a player's performance quality is the most difficult, given the lack of ground truth for that performance assessment and a consistency in adding or retrieving this information.

Methodology

The aim of the paper is to take into account the specialized papers in the field studied, sports prediction, and for this reason I want to analyze the most relevant studies especially in the technological context - models used in predictive. Using the relevant keywords in the Google Scholar and web of science engines, I identified the main

clarifications on the subject, according to their relevance with the subject. I will present continuously the results obtained using predictive models and then the main variables studied.

Results

Results related to predictive models used

My focus is to identify papers from which I can extract information related to obtaining and analyzing predictive variables. If the results were used in the specialized studies or the data were trained to obtain predictions, and more importantly, where the data were extracted from, this being a rather big problem for research. In recent years, it has shown us that with the ever-increasing technology in our lives, more and more precise analyzes are needed. In this sense, sports analysis is interconnected with various camera devices, sensors, etc. One of the options for performing sports analysis is the video summary. Thus, small video slots can summarize the most important actions in a match. In addition to the frames needed to capture images, excitation event detection is also required (Zawbaa et al., 2012). In this sense, Bagadus was developed, a prototype that has a built-in sensor that aims to create video summaries by calibrating the cameras to form a panorama (Stensland et al., 2014). Another approach refers to detecting the key points of a match related to different parameters such as: correspondence with the ball, time dependent, not directly dependent on the ball, etc. or on a player movement system (Stein et al., 2017).

The introduction of tools and predictive models based on Machine Learning (ML) is another facet of the field. R is the language that covers data analysis, modeling and other operations based on statistical analysis, and according to a study by Kaggle 12% of respondents use this language for Data Science activities, being in the top 3 preferences (Data Science Survey, 2018). Two of the most popular classification and regression tree building techniques that are an integral part of Machine Learning are the Random Forest (RF) and Extreme Gradient Boosting (XGB) models (Breiman et al., 1984). For Random Forest the models are created based on the tidymodels framework (Kuhn et al., 2020), and for Extreme Gradient Boosting using the xgboost package (Chen et al., 2020). In a paper that focused on creating a predictive model built on the weather variables of the day of the match, the stage of the match, but also the calculation of the performances of the two participating teams in the last 4 matches played was obtained in addition to a satisfactory accuracy of the variables that influence the sale of tickets to soccer matches. Following the analysis performed using both Random Forest and XGB algorithms, it was observed that the latter is much more accurate, giving a higher score to the season and the environmental conditions of the match day (Fotache et al., 2021).

The main variables included in the studies

The variables of a research differ depending on the goal to be achieved and the area of interest. In the following I will present both variables related to previous matches and variables obtained during the current match used in predicting the results. Some research has attempted to determine the prediction of the winner and the loser respectively, based on possession of the ball and the analysis of approximately 20 actions during the match

(Capobianco et al., 2019). Other papers focused on the classification of the most important variables analyzed, which resulted in over 60% accuracy for predicting the results of a match using Random Forest model (Igoshkin, 2014). For those who want to introduce statistical analyzes, Berrar et al. (2019) present the Poisson and Bayesian models used in predicting outcomes. A probabilistic movement and zones of control are taken into account, thus dividing the field. Depending on where the ball was in the field, they could later establish control areas. In this way they analyzed 40 different events. An example of a challenge regarding sports prediction is the 2017 SoccerPrediction Challenge proposed by Kaggle in which 68 teams competed for soccer outcome prediction. Some of the variables considered by the participating teams are: season, league, date, home team, opposing team, number of goals for each team, goal difference, previous matches for competing teams (Dubitzky et al., 2019).

Regarding the obtaining of the data to be processed, two of the sites that offer free access are champinat.com which is easy to use to search for matches for each season and get information about form, focus and history by analyzing the match information page. Statoo.com is useful because it has a table for each time of the season, so the information is based on scores, positions, etc. can be exported in an easy way. Brooks et al. (2016) use the position and destination of a pass by analyzing passes, shots and tackles. Based on these, the individual strategy is determined, but also that of the team. The field is divided into 18 zones, and possession is determined by at least 3 passes between players of the same team. Because we follow the actions in a match, their number can be very high and their appearance low. For the Belgian Football Division, data were taken for 576 matches, of which approximately 100 actions were analyzed. In this case, VIF (variance inflation factor) was used to delete unimportant variables (Geurkink, 2021).

Conclusion and discussion

The field of sports prediction is an important economic and social factor of regional development worldwide. Sports innovation is an emerging field of research that links sport with management and good innovation practices. Innovation in sports is seen in new technologies, equipment, strategies and training improvements, and to have this overview we used a documentary study on a limited number of articles. Content analysis has as main characteristics objectivity, systematic character by creating explicit rules and their consistent application, as well as a quantitative character by which it is desired to count some occurrences. Supporting these characteristics, I can affirm that there is a trend in the area of predictive analysis focused on team performance, to the detriment of fan-focused analysis. The main focus is on how to play inside football clubs and less on how fans can be attracted to matches, as the variables on which the first criterion depends are easier to adjust. I also noticed that the number of variables differed from research to research, but in essence all those analyzed took into account the selective variables, according to the place and performance of the host team and the guest team. The limitations of the research are represented by the establishment of a number of articles analyzed and was based on a syntax that applied to the four databases from which the analyzed articles were extracted. This research gives me the opportunity to formulate a future research direction through which I want to make a generally valid prediction model of the results for soccer matches using a list of variables identified in the research analyzed previously.

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COMPARATIVE APPROACH UPON ORGANIZATIONAL CULTURE MODELS

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Tudor IRIMIAȘ

Babeș-Bolyai University, Faculty of Economics and Business Administration
Cluj-Napoca, Romania
tudor.irimias@econ.ubbcluj.ro

Zenovia-Cristiana POP

Babeș-Bolyai University, Faculty of Economics and Business Administration
Cluj-Napoca, Romania
zenovia.pop@econ.ubbcluj.ro

Abstract: *Research on organizational culture (OC) evokes a common perception of unique characteristics that are stable over space and time but shared by the members of an organization. In this meta-study we stress out that papers on OC cover through a somewhat eclectic, and sometimes eccentric manner, a timeline of 70 years of both, OC theory and pseudoscientific approaches. Papers we eventually retained for this meta-analysis (47 out of 638 analyzed abstracts) fitted at least one criteria of the following: reference to (1) descriptions and definitions of OC and (2) types and dimensions of OC. Our contributions were generated through two studies run on our base sample: (1) A semantic text analysis of the OC definitions (solves ambiguities of words by means of several problem-solving algorithms) and (2) a frequency analysis of unique OC conceptualization attempts. Finally, we stress that organizations are being transformed because of the radical changes in the way people think, becoming more flexible and we identify key words and conceptual clusters, which could contribute to and streamline the managerial communication practices in every organization that operates with and facilitates administration services.*

Keywords: *organizational culture, organizational theory, types of cultures, dimensions of cultures, semantic text analysis.*

Introduction in Organisational Culture (OC)

To create an overview of the organizational culture, one can compare it with the personality of an individual. It is transmitted, developed, and assumed in various modes, such as unwritten rules with ethical and social implications (Groysberg et al., 2018) establishing hierarchical structures and relationships in the long-term, specific languages that direct and support communication between the members of the enterprise, standards of social ethics and individual behavior. We discuss that knowing and understanding the culture of an organization by the management has implications upon its performance and strategy. Mastering and assuming enterprise culture is essential in identifying and evaluating, streamlining processes and flows both externally and internally.

Literature review

Jaques (2013) coined the term culture in relation with the organization in 1951. Since then, scholars in the area of Organizational Psychology and Management Studies

sought to shape the relationship between Organization and Culture, from various perspectives and through different methodologies. OC became a very popular subject in the management literature, mainly after 1980 (Georgescu, 2012). Tsui et al. (2006) observe that throughout the literature, there are phenomenological (concept, meaning) and functionalist (consequences) approaches of organizational culture. The findings of Murphy et al. (2013) indicate that culture as a midwife of sorts to organizational behavior, that is, an element uniquely necessary to explain a firm's inimitable human side, such as organizational citizenship behaviors and effective leadership. Sarhan et al. (2020) states about the models and proposed dimensions to assess the concept of organizational culture, that they are theoretically and conceptually divergent, but basically related to each other.

Research on organizational culture indicates that human resources perceive it as having unique characteristics that are stable over space and time but shared by the members of an organization (Oh & Han, 2020). Although individuals' perspectives on real world phenomenon are as numerous as the individuals who exert them, the perceptions of organizational culture converge to form a unitary system of thinking (G. J. Hofstede & Minkov, 1991), a complex set of norms and values that the group has learned while solving problems (Schein, 1985; Serrat, 2017). In other words, individuals at distinct levels of culture or at different hierarchical levels of the organization tend to agree on important aspects of culture, and the organization is seen as an entity through its organizational culture. New members are taught the right way to perceive, think and feel organizational culture (Schein, 1996). Despite the different definitions of organizational culture, there are a few common elements included by management scholars (Argyris & Schön, 1997; Heilpern & Nadler, 1992; Schein, 1985). Holding constant the overall concept that organizational culture is present at all levels of the enterprise regardless of the homogeneity or heterogeneity of the organizational elements, it is important to consider the holistic feature of the paradigm. Leaders who succeed in an effective implementation of change under pandemic times in the organizations require, in the sense of Schein (1996), a realistic and objective view of the cultures where they exercise managerial responsibilities, otherwise they risk becoming puppets of those cultures. The evolution of the organization is reflected in the development of the organizational culture and can be analyzed by following its historical or contextual determinants (Gürlek & Tuna, 2018; Klüppel et al., 2018).

Though some definitions are at some extent diverse, we found that culture is generally considered peculiar to a given organization and somewhat inimitable. Its top-down values and shared assumptions are evident in behavioral norms and common experiences of members (Murphy et al., 2013). One recent definition is Kartolo and Kwantes' (2019) "reflects, and is shaped by, values, attitudes and expectations that are held in common by members within the organization; a force that holds organizations together that is crucial to the success or failure of an organization in various aspects".

Types of OCs

Organizations are like ethnic groups, countries, or regions. Each of them has different (economic, political, technological, and social) backgrounds and different contexts. They are created, accepted, maintained, and sustained by a group of people. The type of culture reflects, according to Enache (2004), the attitude of the organization towards

change, which may be: conservative, opportunistic, enterprising, and expansionist. Rue and Holland (1986), who establishes seven characteristics of the conceptual composition of OCs: individual autonomy, structure, support, identification, rewarding performance, conflict tolerance, risk tolerance.

Other studies (Chatman & Jehn, 1994; O'Reilly III et al., 1991) present a different perspective on the primary characteristics that, aggregate the essence of the organizational culture like innovation and risk taking, attention to details, orientation towards the result, the people, the team, aggression and stability. Therefore, through organizational culture, employees are encouraged to be inventive (Sokoh & Okolie, 2021, p. 290) and to undertake risk, while achieving performance in terms of precision, analysis and attention to detail the management remains results-oriented, rather than focusing on the techniques and processes needed to obtain the results. In a more abstract line of thought, Denison (1990) identifies four primary perspectives on organizational culture that build on four distinct hypotheses:

1. Consistency hypothesis - supports the idea that a common view, shared views and mutual values between the human resources of the enterprise contribute to internal coordination and give a sense of meaning to the professional existence of the employees.
2. Mission hypothesis - presents the idea that a common goal and a common strategy can coordinate and direct the human resources of the enterprise to collective goals.
3. Involvement / participation hypothesis - supports the idea that employee involvement and participation contributes to the development of human sense of responsibility and enhances loyalty, dedication and fidelity towards the enterprise.
4. The adaptability hypothesis - describes the idea that norms and perceptions determine the survival, growth and development of the enterprise. Thus, perceptions have the role to feed and improve the ability of an enterprise to intercept, interpret and find correspondence to signals from the enterprise environments.

Using a binary approach, there are some scholars (S. P. Robbins, 2009; Waterman & Peters, 1982) who group the OCs into strong/positive and weak/negative cultures. Thus, there is an inevitable link between organizational culture and the level of success it enjoys. A strong culture is maintained where human resources respond to incentives because of their alignment with the organization's values. Poor culture exists where there is no human resource identification with the organization's values and where power has to be exercised through cumbersome procedures and bureaucracy (S. Robbins & Judge, 2009; Waterman & Peters, 1982). A similar binary approach have Krackhardt (1994) and Diefenbach et al. (2011) when speaking about the degree of organizational formalism, resulting in (1) informal and (2) formal organizations.

An attempt to analyze the OC structures through mathematical modeling elements is undertaken by Goffee and Jones (1996). Thus, the scholars present a matrix for understanding the culture of the organization, where the two dimensions of the matrix are sociability and solidarity; this two dimensions of culture give, through the combination of values, four types of OC: (1) Network culture, (2) Community culture, (3) Fragmented culture and (4) Mercenary culture. Another approach about the culture of the enterprise is set by Hofstede (1996), which noticed six dimensions of organizational cultures.

In the next chapter, we are addressing the plethora of approaches on OC literature from the past seventy years while extracting some key similarities and differences. Such a retrospective is much needed, especially in times when the companies are "following

dramatic shifts in behavior, trust system and essentially the way” they operate (Baghiu, 2020, p. 9).

Data Gathering, Analysis and Conceptualisation

Methodology

Amongst the numerous obstacles that researchers and managers have, to understand, through inductive and/or deductive approaches, the paradigm of OC is the lack of consent on its definition. Therefore, a Semantic Text Analysis could be helpful, to discuss definitions of OC in a new light. Studies from all disciplines, ranging from supply chain (Aryal et al., 2020) to accounting (Crofts & Bisman, 2010) use natural language processing and semantic classification software for identification of content and relationships. As a result of the systematic search from specific online databases: Emerald Insight, Science Direct and Google Scholar a number of 638 analyzed abstracts were identified and 47 articles included in two studies:

- Study 1: Semantic Text Analysis of the OC Definitions (solves ambiguities of words by means of several problem-solving algorithms) and
- Study 2: Unique OC Conceptualization Attempts Occurrence Frequency Analysis.

Definitions for the review were extracted onto a standardized data extraction form (designed in MS Excel) including name(s) of the author(s), year of publication, article title and model name (if present), original definitions as formulated by the author(s), type of approach to conceptualize OC (if present, differentiating between typological, dimensional or mixed). The first and second author double-checked all extracted data and selected article references were reviewed in order to extend the search for relevant articles. Consequently, 46 Original Definitions of OC and 23 Unique OC Conceptualization Attempts are included.

In Study 1, for purpose of isolating essential language indicators like verbs, adverbs, adjectives, the 46 Original Definitions of OC were analyzed using a high performance language semantic analysis software, i.e. Tropes, developed by the university of Aix-en-Provence (Simons & Smits, 2020) available from the Semantic-Knowledge Website (2022), free of charge. The advantages of using the Tropes software are that it offers the user the possibility to handle also English data and the ability to carry out stylistic (argumentative, enunciatively, descriptive or narrative style), syntactic and semantic analyses. It also includes the presentation of the results in graph and table form. The second study, given the concurrent increase in the number of articles aims to develop a provocative type of approach to conceptualize OC, if present, differentiating between typological, dimensional or mixed.

Study 1 - Grasping the essential meaning of OC

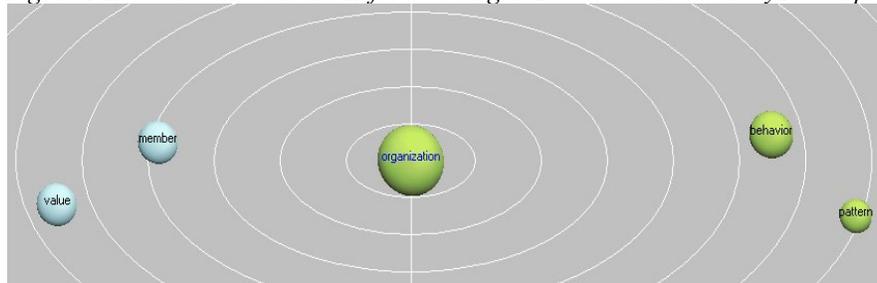
Once the corpus analysis was completed the text style (Semantic Analysis) turned out to be rather argumentative. The authors of the OC definitions argue, explain or analyze in order to try to convince. Definitions appear to show their effectiveness in convincing the addressee of a certain standpoint (Van Eemeren, 2019) by using the individual pronoun «I», the authors stress a well-developed sense of self-awareness, revealing their dynamic point of view and aiming at reducing misunderstandings. The corpus involves the narrator and is distinguished mostly and significantly by the use of verbs that help to make a

statement about a given state or an action. In relation to the verbs, these are “factive” (Semantic-Knowledge, 2022) (53.8%) expressing actions (“to be”, “to shape”, “to share”, “to develop” etc.). Furthermore, definitions use modalities (adverbs or adverbial phrases) that express manner (42.5%), therefore the way something happens or it is done, is contained by the discourse. The selection of adjectives is critical, revealing that adjectives are objective (86.4%) enabling to characterize beings or objects.

As we explore how the concept of OC differs in definition, we identified two Reference fields, providing a general overview of the primary organizational culture themes that were studied in the last decade. Reference field 1 group together the main substantives like organization, behavior, social group, cognition and culture, of the definitions analyzed into Equivalent classes while Reference field 2 displayed themes with associated frequency like organization, behavior, cognition, culture and people. As we noticed, both Reference fields are quite comparable, in both kind and frequency of substantives’ appearance. When investigating how the concepts of OC differ in their definitions, the graph is a suitable way to represent the correlation between various equivalent classes, appearing frequently throughout the definitions.

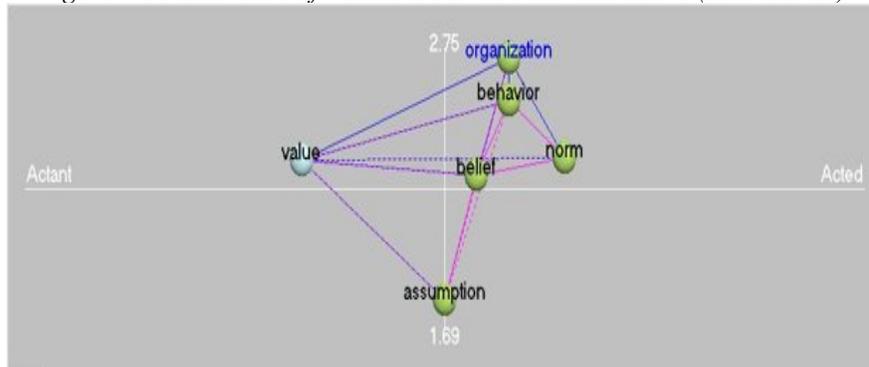
In the following diagram, we concentrate on the main concept, the organization. The main concept is presented as a sphere with a size, proportional to the number of concepts it contains.

Figure 1 Relations between the Reference-Organization within the analyzed corpus



The number of connecting relationships between concepts relates to the distance between the planets: when two planets are near together, they have many relationships; when they are far apart, they have few. In the above example, “organization” shares many Relations with “member”, “value”, “behavior” and “pattern”, and fewer relations with “history” or “symbol”. To the left of the main concept, organization are their predecessors (member, value), to the right their successors (behavior, pattern).

Figure 2 Concentration of Relations between the main actors (actant/acted)



As we can see, References are placed either as “Actant” (Semantic-Knowledge, 2022), before the verb, often subject, it carries out the action, or as “Acted”, after the verb, is subjected to the action. The lines show the relations (using co-occurrence statistics) between the reference selected and the other references displayed. A dotted line shows an infrequent relation. A solid line indicates a frequent relation. In our opinion, Values as “Actant” are calling for action to change. Leading through change is no and easy task (Dogaru, 2018, p. 168), but the process could be optimized through the inclusion of important references like those that were identified in our research: members, values or behavior in communication. Our data is consistent with Verbeke’s (1998) results. We call the X axis (horizontal) actant/acted ratio (from left to right) and the Y axis (vertical) demonstrating the concentration of relations for each reference (strong-top, weak- bottom). If a reference is associated with many other references, it may be deduced that this reference is very important.

Study 2 - Types or Dimensions of OC?

Considering a timeline of 70 years of OC theory, starting in 1951, with Jaques’ Changing Culture of a Factory (Jaques, 2013), we identified twenty-three, unique attempts (or at least of a mixed nature – meaning an overlap of existing OC Types and Dimensions) which ought to conceptualize the and differentiate between OCs. This OC views changed at a slow pace after the middle of the nineties, meaning that the scholars, now “promoted” to “classics”, laid the foundation of OC studies between '82 and '96 (almost 80% of the models were published in an interval which represents 20% of the analyzed time frame).

Throughout our meta-analysis, we identified two fundamentally different approaches on “dealing” with the OC paradigm, namely:

- a positivist, constructivist approach (Scott et al., 2003), that proposes instruments which imply quantification methodologies (Cameron et al., 1991; Cooke & Lafferty, 1987; Harrison, 1972; Quinn & McGrath, 1985);
- or a total disregard for attempts to measure OC in favor to a qualitative research framework through the use of observation or projective metaphors (Deal & Kennedy, 1983; Goffee & Jones, 1996; Schein, 1985; Sonnenfeld et al., 1988; Wallach, 1983).

In Table 1, we summarize the findings of our meta-study on the approaches to conceptualize OC between the years 1972 and 2008. We could determine three kinds of approaches: a typological, a dimensional and a mixed one. The table contains also, the title of the article or model name, the author and a short description of the concept.

Table 1 Research references on types/dimensions of OC (between 1972-2008)

Nr. Crt.	Model/Article Title	Author(s) and Year	Approach	Concept
1.	Harrison's Organization Ideology Questionnaire	Harrison, 1972	Typological	Measures the organizations' ideology with focus on: power, roles, tasks and individuals (Harrison, 1972). This questionnaire addresses both existing and preferred culture
2.	Corporate Cultures: The Rites and Rituals of Corporate Life	Deal & Kennedy, 1983	Typological	The research of Deal & Kennedy (1983) resulted in following types of OC: "Macho" culture, "Work-Hard-Play-Hard" culture, "Bet your company" culture, "Process culture" culture.
3.	"American Corporate Renaissance"	Kanter, 1983	Typological	Kanter (1983) defines two poles of OC, named Segmentalist and Integrative cultures. "The segmentalist culture is viewed as being resistant to change [...], integrative cultures, [...] look for novel solutions to problems"(Cresswell et al., 2014, p. 361).
4.	Organizational Culture Index (OCI)	Wallach, 1983	Typological	The OC types which Wallach (1983) proposes are: Bureaucratic, Innovative and Supportive culture. "the integration between these three dimensions can produce the core value of an organization culture"
5.	Layers of Organizational Culture	Schein, 1985	Dimensional	Schein (1985) brings in discussion a pattern of cultural elements which are to be categorized in different Layers of OC, including artefacts, espoused values, and unspoken assumption, while "More amenable to moulding by management are the outer layers of culture, the rituals, symbols, heroes and other artefacts" (Sinclair, 1993). The same three dimensions are still the subject of present research which does not question the mindset, but only applies it in a specific domain (see, Bolinger & Burch, 2020; Z. S. Byrne et al., 2021; Gao et al., 2020; Sawan et al., 2018; Zanin et al., 2021).
6.	Competing Values Approach (CVA)	Quinn & McGrath, 1985	Typological	Based on an earlier study (Quinn & Rohrbaugh, 1983), Quinn & McGrath (1985) propose following categories of OC: Consensual, Developmental, Hierarchical, and Rational Culture. "Although the CVA proposes these four different cultures, they are suggested as archetypes, and organizations are expected to reflect all four cultures to some extent" (San Park & Kim, 2009, p. 22).
7.	Organizational Culture Inventory	Cooke and Lafferty, 1987	Dimensional	The OC is measured from the angle of the employees' perceptions about shared norms and expectations, which influence group thinking and behavior. Evaluating the (twelve) resulted thinking styles, there can be observed three kinds of OCs: (1) People/Security, Satisfaction and Task/Security Culture (Cooke & Lafferty, 1987; Murphy et al., 2013).
8.	Organizational Culture Survey	Glaser et al., 1987	Dimensional	Addresses an inductive approach with focus on teamwork and conflict, climate and morale, information flows, involvement, supervision and meetings (Glaser et al., 1987).

9.	The Sonnenfeld model	Sonnenfeld et al., 1988	Typological	<p>“The Sonnenfeld model has two positioning axes: characteristics of the business environment (which varies between stable and unstable) which can affect company’s strategies, and the dominant manner of action or expected contribution from the members of the organization (collective or individual)” (Zait, 2016). Thus, four types of OC are being revealed: The academy type, The club type, The baseball type, and The Fortress type (Sonnenfeld et al., 1988).</p>
10.	Hofstede’s Organizational Culture Questionnaire	Hofstede et al., 1990	Dimensional	<p>Focuses on 3 concepts: the security need, the work importance and the authority need. In relation to these concepts, following factors can be defined: process vs. outcome, employee vs. task, parochial vs. professional, open vs. closed system, loose vs. tight control, normative vs. pragmatic (G. Hofstede et al., 1990; G. J. Hofstede & Minkov, 1991; Wallace et al., 1999).</p>
11.	Survey of Organizational Culture	Tucker et al., 1990	Dimensional	<p>Describes OC in terms of following dimensions: orientation to customers, orientation to employees, congruence amongst stakeholders, impact of the organization’s mission, managerial depth/maturity, decision making/ autonomy, communication/ openness, human scale, incentive/ motivation, cooperation versus competition, organizational congruence, performance under pressure (Scott et al., 2003; Tucker et al., 1990).</p>
12.	Competing Values Framework (Originating in Jung’s (1923) model of psychological archetypes)	Cameron & Freeman, 1991	Typological	<p>The four perspectives of analysis OC are: (1) staff climate, (2) leadership style, (3) bonding systems and (4) prioritization of goals. When applied, the framework returns four different culture types: (1) Clan, (2) Adhocracy, (3) Hierarchy and (4) Market. Each organization between at least two of these types (Cameron et al., 1991).</p>
13.	Cultures in organizations: Three perspectives	Martin, 1992	Dimensional	<p>The perspectives of Martin’s (1992) theoretical approach on OC are based on three dimensions: integration, differentiation and fragmentation. “This three perspectives have helped classify culture studies in an area that defies easy conceptualization” (Smerek, 2010).</p>
14.	Hospital Culture Questionnaire	Sieveking et al., 1993	Dimensional	<p>This questionnaire model measures the employees’ perception about OC from eight different angles/dimensions: supervision, employer attitudes, role significance, (hospital) image, competitiveness, staff benefits, cohesiveness, and workload (Sieveking et al., 1993).</p>
15.	MacKenzie’s Culture Questionnaire	MacKenzie, 1995	Dimensional	<p>Focus on (1) employees (in terms of commitment, attitudes to and belief about innovation, attitudes to change) and (2) management staff (encompassing style of conflict resolution, management style, confidence in leadership) and (3) organization as a whole (i.e., action orientation, human resource orientation, consumer orientation, organizational direction) (Mackenzie, 1995; Scott et al., 2009).</p>
16.	The changing cultures of universities	McNay, 1995	Typological	<p>McNay (1995) integrates the four types of OC in a plane Cartesian coordinate system with the axes: "Policy definition" and "Control of implementation".</p>

				The scholar differentiates between: (1) Enterprising, (2) Corporate, (3) Collegiate and (4) Bureaucratic.
17.	Theoretical Model of Culture Traits: "Denison Organizational Culture Survey"	Denison & Mishra, 1995	Dimensional	The authors develop a framework designed to acknowledge two viewpoints: internal integration and external adaptation. Thus, they understand organizational effectiveness focusing on following four dimensions: (1) Mission, (2) Consistency, (3) Adaptability and (4) Involvement (Denison, 1990; Denison & Mishra, 1995).
18.	Corporate Culture Questionnaire	Walker et al., 1996	Dimensional	The scholars identify four dimensions: (1) Performance, (2) HR, (3) Decision making, and (4) Relationships (Walker et al., 1996).
19.	What Holds the Modern Company Together	Goffee & Jones, 1996	Mixed	The concept is of mixed nature (Goffee & Jones, 1996), addressing the issues of sociability and solidarity within an OC, as dimensions, resulting four types of OC: (1) Communal, (2) Fragmented, (3) Networked and (4) Mercenary Culture.
20.	Core Employee Opinion Questionnaire	Buckingham & Coffman, 2000	Dimensional	Following issues are addressed: overall satisfaction, perceived expectations, access to needed resources, skills usage, recognition and praise, relationship with supervisors, self-development support and opportunities for career progression, perceptions of worth, overlap with the organizational mission, employees commitment, friendships (Buckingham & Coffman, 2014; Scott et al., 2009).
21.	Quality Improvement Implementation Survey	Shortell et al., 2000	Mixed	There can be identified four types of OC: (1) Group, (2) Developmental, (3) Hierarchy and (4) Rational, based on organization's character, manager's style, cohesion, prioritization of tasks and reward system, which represent the dimensions of the OC (see, Shortell et al., 2000)
22.	Practice Culture Questionnaire	Stevenson, 2000	Dimensional	The assessment of attitudes to and engagement with quality assurance and change barriers (Stevenson, 2000).
23.	O'Reilly's et al. 1991 "Organizational Culture Profile"	Robbins & Judge, 2008	Mixed	The scholars (S. Robbins & Judge, 2009; S. P. Robbins, 1996) adopt O'Reilly's et al. (O'Reilly III et al., 1991) dimensions of OC: innovation and risk taking, attention to detail, outcome orientation, people orientation, team orientation, aggressiveness and stability, and overlap them with two additional OC types: Strong vs. Weak cultures.

The OC views are catalyzed, either from a typological comprehension in which the assessment results in one of more types of organizational culture or they propose a dimensional approach, which describes a culture overlapping with a given number of continuous variables (Scott et al. 2003: 938).

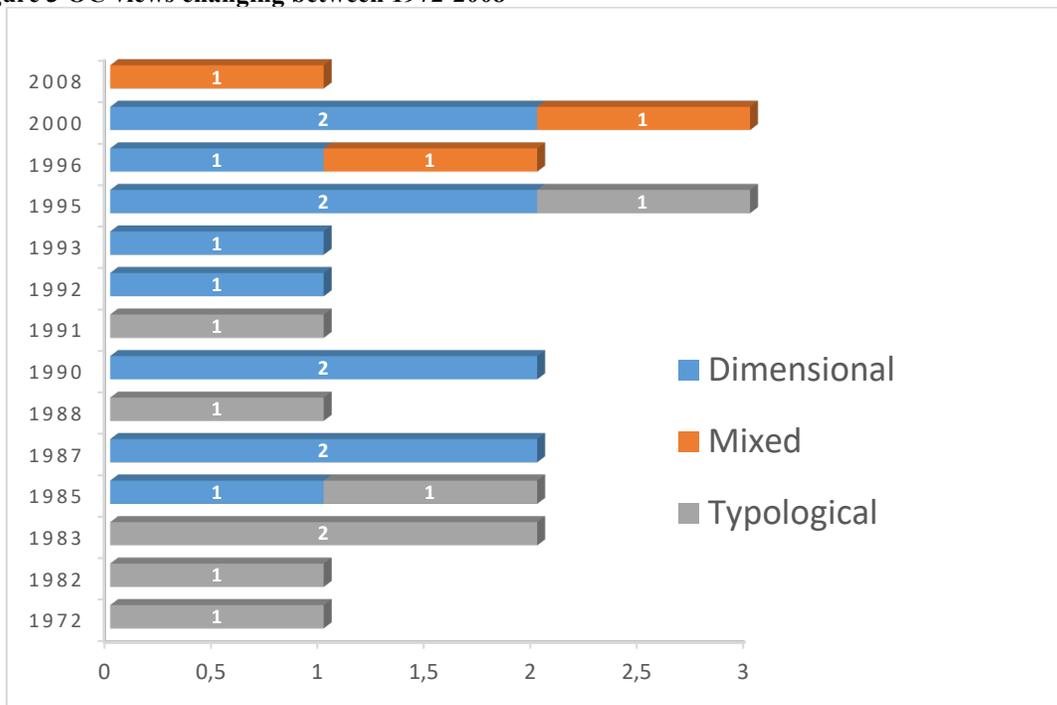
Table 2 Unique attempts to conceptualize OC

Publication Year	OC Views			Grand Total
	Dimensional	Mixed	Typological	
1972			1	1
1983			3	2

1985	1		1	2
1987	2			2
1988			1	1
1990	2			2
1991			1	1
1992	1			1
1993	1			1
1995	2		1	3
1996	1	1		2
2000	2	1		3
2008		1		1
Grand Total	12	3	8	23

As a general rule, we underline an interesting fact (see, Table 2 and Figure 3): OC studies move in a gradual manner: from a paradigm based on types, through a one ruled by dimensions, until "recent" years, where a mixed approach is taking the floor of the scientific discourse.

Figure 3 OC views changing between 1972-2008



Conclusions

Our semantic text analysis contributes to unlocking the meaning of knowledge relevant to understanding OC. Understanding the context in which concepts are relevant can address more interesting research questions and explore hypotheses that have previously been unexplored. These findings which build on the recently proposed semantic theory (see, Simons & Smits, 2020; Verbeke et al., 1998) shed light on how extensively behavior is embedded within OC, in organizations in which hierarchies seem to be experiencing a renaissance. There is a tendency in the OC literature to switch from paradigm based on types and dimensions to a mixed approach. Much of the research on OC has focused on descriptors of culture (Balthazard et al., 2006, p. 711), while the plethora of its definitions still oscillate in terms of the very visible to the very tacit and invisible (see, J. Byrne et al., 2019; Whelan, 2016). Thus, the most frequent approach on OC understands it through dimensions or typologies of culture.

In addition to the practical benefits of the results obtained, this research aims to help managers better comprehend the structure of the OC definitions, furthermore, improving managers' communication skills and practices. It is unlikely that any single instrument will ever provide a valid, reliable, and trustworthy assessment of an organization's culture, and so a multimethod approach will always be desirable (Scott et al. 2003). However, it remains to be researched the meaning of culture-specific terms used in OC definitions, and therefore exploring the connection between culture-specific expressions and intercultural communication within organizations.

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POVERTY ALLEVIATION POLICIES: CATALYST FOR ECONOMIC DEVELOPMENT OF NIGERIA

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R. A. ITIVEH

Department of Economics
Delta State University, Abraka, Nigeria
rotative2006@yahoo.com

Abstract: *The word poverty had been and is still one of the most familiar and serious problems facing different economies of the world. While the developed countries try to minimize this menace to some extent, other underdeveloped countries wallow in its dominance with impunity. Poverty has been identified to be more associated with rural country side, and linked with some known barriers for its reduction such as government failures, deprivation, inflation and diseases. In Nigeria, although several poverty alleviation policies and programmes have been implemented the problem still persists, it is against this background that this paper examines whether poverty alleviation policies could be a catalyst to the development of the economies of the south-Saharan region that is mostly affected. This paper finds out whether it is lack of democratization, inability to tap the abundance of human and natural resources in Nigeria that could be the bane for the persistent increases in the poverty status of the populace. The paper also suggests positive and attitudinal changes that could properly implement the numerous policies and programmes, to reduce poverty to the bearrest minimum, towards the development of the Nigerian economy.*

Keywords: *Poverty, Alleviation, Economic Development, Programmes.*

Introduction

Poverty has been known to be inevitable among human beings, and found to be the most serious problem of mankind throughout the world. According to World Bank (2000), out of the world's 6 billion people, about 2.8b live on less than US \$2 a day, and more than 1.2b people still live in extreme poverty level of less than US \$ 1 daily. Poverty is associated mostly with developing countries and the rural regions are deeply known with this phenomenon (Lopez 1998). By the 1991 population census in Nigeria, it was discovered that over 75% of the population live in rural areas, and that 90% of them are small scale peasant farmers (Maguezegbe, 1991). Poverty is complex and affects all aspects of human endeavor. It has been researched by economists, geographers, psychologists, management scientists, administrators, political scientists, bankers and non-governmental agencies (NGOs). In each of these disciplines, their findings indicates that poverty creates attitudes that have negative effect on growth, employment, income, equality, security, democracy and good governance, together with environment and basic needs of man. In Nigeria, for example many ministries, agencies, establishments and humanitarian actions have been established to reduce poverty. Consequently Government at different times and levels have attempted to alleviate poverty in Nigeria. The operation feed the nation of (1976), the land use Decree (1978), the Green Revolution programme (1980), the Better life for rural women (1987), the Family Support Programme (1995), Directorate of Food, Roads and Rural Infrastructural DFRRI(1987), Structural Adjustment Programme SAP (1986). Better life for rural women. BLRW(1987), United Nation Capital Development

Fund (UNCDF) have been some of the programmes initiated by different administrations to alternate poverty in Nigerians. Poverty Alleviation programmes like the National poverty Eradication Programme NAPEP(1999), micro finance banking activities within the year 2000s were also implemented but to no avail. From the above exposition, the main objective of this paper is to examine how poverty alleviation could be used as a catalyst for economic development of Nigeria. Specifically we will identify the various causes of poverty in Nigeria and steps so far taken by government to contain or reduce the menace in the economy to the barest minimum.

The paper will be divided into five sections. Section one is the introduction, while section two focuses on the different definitions of poverty in Nigeria. Section three deals with poverty and economic development, while section four suggests ways of reducing poverty in Nigeria with conclusion and recommendation ending the paper in chapter five.

The Word Poverty

Poverty has been defined differently by researchers based on judgements, policy and politics. Few will dispute that poverty is the inability to sustain some minimal level of existence. Poverty is defined in either absolute or relative terms. Absolute poverty denotes a condition that exist when people lack the means to satisfy their basic needs as identified by Maslow (1954) are food, clothing, shelter, transport and health (encyclopedia Britannica, 1972). According to Khugan and Braithwaite (1998:40), the standard approach to define absolute level of poverty is to price a basket of essential goods, and compare it with individuals income to the cost of these necessities. In Nigeria, the dimension and distribution of absolute poverty according to UNCDF (1997) and World Bank Group (2001) may be known from the following data provided: That five children in every hundred (5%) die before reaching five years of age. By 1985 survey, 43 percent of the total population live in absolute poverty with 80 percent of them living in rural areas.

As many as 50 percent of the children suffer from underfeeding. The gap between the rural and urban, formal and informal sectors continue to grow rather than diminishing with increases in economic growth and development. The total people living in absolute poverty live on the very margin of life, on less than US. \$1 a day. Relative poverty on the other hand is defined in comparative terms. This is associated with conditions under which people live indifferent areas, such as ranking among countries or regions of the world, for example by 2001 Nigeria ranked as number 151st out of 174 countries in the world (Odozi, 2001), using development index. Among the poor in rural African and Latin American, households headed by women are poorer on the average than those headed by men (Binswanger and Pingali 1988, as cited in Pearce in 1993: 270). This convincingly implies why women are major targets for assistance in development efforts by nations.

Causes of poverty

By our definitions above, it is clear that absolute or relative poverty can be measured by low income, low life expectancy or illiteracy. There is a strong correlation between the extent of poverty a country has and its Gross Domestic Product (GDP). Based on the above economic and social indicators and others, Nigeria is yet to achieve the much

desired goal of rapid economic growth as well as the elimination of poverty. Causes of poverty in Nigeria could be summarized as follows:-

Political Instability:

This began since 1960. After the independence Nigeria has had more than thirteen heads of state between 1960 and 2003. The constancy in changing governance by about 75 percent of them coming to power through coup detates does not promote growth, coup is usually an unintended wild and retrogressive change effort. It does not create confidence for saving and investments and its consequences is increased poverty.

Bad Governance:

Political leadership in Nigeria lacks accountability, transparency in Government business, absence of rule of law, inconsistency in policies and absence of sound management of available natural and human resources. This bad governance tend to inhibit development of the country.

Corruption as a cankerworm has provided opportunities for well-connected few elites and interest groups in the society to corner for themselves larger proportion of the society's resources at the expense of the masses thus making them to be lazy, fail to innovate and contribute to the development of the society.

Poor Capital Formulation/Accumulation Rate: In Nigeria, income is so low that, it is very difficult if not impossible to save by over 80 percent of the working few. How much capital that could be accumulated in the first instance depends on how much current income is saved rather than consumed (Dasgupta 1978). The entrepreneurial systems of savings mobilization, credit delivery and disbursement approach are still very primitive. Nigeria entrepreneurs mainly use *Esusu* associations for savings mobilization and credit delivery to finance private initiatives whose credit disbursement are based on pre-determined lot rather than specific enterprise needs, all due to total lack of acceptable securities to borrow from banks. Forest (1995) said that Nigeria exhibit the acquisition of wealth but not capital accumulation. Because of low and primitive saving habit in Nigeria, the rate and quality of capital formation and accumulation are affected.

Cost of Governance: Budgets in Nigeria since the 4th to this Sixth Republic reveal that over 60-70 percent of the annual revenue is on current expenditure (Obasanjo 2002). This high rate is not far-fetched, as Asuelimen (2002) observed that the president alone keeps an idle legion of over 49 ministers, over 100 special advisers and make many foreign tours and missions. The president buys 2-3 new Jet planes for himself and entourage etc. not to talk of the maintenance of the National Assembly whose remunerations out stripe that of the United States Assembly. As a result, Nigeria spends about two-third of its \$15 to \$17 billions yearly oil earnings to run the machinery of government, to the detriment of over 80 percent of her citizen that still wallow in abject poverty; and yet turns around to beg the world for loans.

Neglect of Agriculture Production: Agricultural practice is able to absolve more than 60% of the unemployed youths through poverty alleviation. With large span of land across the country, and loamy soil with good tropical climate, crops of different kinds can be raised throughout the 36 states of the federation including the Federal Capital Tertiary (FCT) Abuja. Farm practices like Horticulture, Animal husbandry, Fishing etc. should be encouraged with government proactive efforts this time around, undermining the abundant

pre-dominant oil production in the country. With enhanced wages and adequate motivation to the youths, there would be sufficient food for the teeming population and individuals can come out of the chronic poverty line in the country.

Population growth rate: The economic performance of the country has been very backward, and below target. There is very high population growth rate, even higher than the annual GDP. For example in the years 2000 and 2001, population growth in the GDP was 3.8 and 3.9 percent respectively, while the growth rate for the corresponding years were 4 percent. (CBN 2001). Revenue allocation, religion and tribal conflicts have reduced the speed of poverty reduction in Nigeria. Nigerians spend greater part of their time and money on conflicts instead of sources for growth. For example there are religions conflicts in Kano, Kaduna Borno, Plateau and other parts of the North being caused by a religious sect called the “BokoHaram”.

There are also cases of Revenue allocation conflicts in the Niger-Delta occasioned by the oil exploitation and its revenue, also important are the ethnic and tribal conflicts between Ijaws and Itsekiris in Delta state, Ilaja of Ondo State, Lagos, Jos, Shagamu Middle belt states, with political violence and election petitions and litigations throughout the country’s courts.

Unemployment Problem: Different types of unemployment exist such as disguise, frictional, and seasonal are all found in the country. Efforts by successive government to solve the problem have always been unsuccessful. Bans are frequently placed on employments, constant retrenchment of workers without benefits also a bound. In some cases, even the National Youth Services Corps (NYSC) members posted to many government parastatals for their primary assignments are rejected. Job opportunities are non-existing, and if a few exists are reserved for only friends and relatives.

Gender and sexism problem: This problem refers to a type of discrimination between people based on their social classification of male or female (Oakley and Oakley, 1979). In Nigeria for instance a male child is honoured and given a better education, some husbands don’t allow their wives to work – “full house wives”, and this have negative effect on the economy. This socio-cultural phenomenon becomes dangerous and devastating if the man is ill or dies, the women and the children are then faced with the calamity of abject poverty. If given the chance women could be of great assets to development of economies for example, the few that have had certain opportunities prove men wrong for not taking proper cognizance of their ability. Some of such women in Africa include Dr. Ngozi Okoyo Iweala, Dr. Obi Ezekwesli and some of the few political office holders like first ladies in Federal and state government administration in Nigeria and Helen Saleh, the president of Liberia just to mention just a few.

Economic Instability and institutional failure: There is failure in the strategic management of development plans, budgets, policies and practices of public expenditure programmes. There exist also poor credit facilities to investors. There is poor income distribution with bad fiscal and monetary system under utilization of trained graduate manpower. With continuous dependent on oil as main source of its revenue; Nigeria is unable to budget properly due to constant fluctuation of crude oil prices in the world markets. There is the perennial land tenure system as a major problem to expand on its agricultural potentials.

Table 1: Poverty level in Nigeria 1980 – 1997

Years	Estimated total population (millions)	Population in poverty (millions)	Poverty level
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1980	65	17.7	27.2
1985	75	34.7	46.3
1992	91.5	39.2	42.9
1996	102.3	67.1	65.6

Source: Federal Office of Statistics, 2001

Table 1 reflects the poverty situation in Nigeria. It shows the rate of increase in poverty in relation to population. Table 2 and table 3 give a clear picture of the degree of poverty in Nigeria

Table 2: The poor and core poor in Nigeria

Years	Estimated total population (millions)	Population in poverty (millions)	Poverty level
1980	72.865	21.0	6.2
1985	53.7	34.2	12.1
1992	57.2	28.9	13.9
1996/1997	34.4	36.3	29.3

Source: Federal Office of Statistics, 2001

Table 3: Poverty by size of Household

Size of household	Poverty headcount			
	1980%	1985%	1992%	1996/1997%
1	0.2	0.7	2.9	13.1
2-4	8.8	19.3	19.5	51.5
5-9	30.0	50.5	45.4	74.8
10-20	51.0	71.3	66.1	88.5
20+	80.9	74.9	93.3	93.6
All Nigeria	27.2	46.3	42.7	65.6

Source: Federal Office of Statistic; (2001)

The effect of poverty in Nigeria

The UNDP Human Development Report (HDR) of 1998 on Nigeria describes the country as “a rich country with a poor population” and “the poorest and most deprived OPEC country” (UNDP 1998). Details of the HDR for Nigeria in 2003 is as shown in table 4.

Table 4: UNDP Human Development Report

Life expectancy at birth (years), 2001	51.8
Adult literacy rate (% age 15 and above), 2001	65.4
Combined primary, secondary and tertiary gross enrolment ratio (%), 2000/01	45.1
GDP per capita (PPP US\$), 2001	850
Life expectancy index, 2001	0.45
Education index, 2001	0.59
GDP index, 2001	0.36
Human development index (HDI) value, 2001	0.463
GDP per capita (PPP US\$) rank minus HDI rank	13

Source: http://www.undp.org/hdr2003/indicator/cty_of_NGD.html

The effect of the poverty is much to the extent that the seventh position of Nigeria as the exporter of oil in the world and the largest in Africa is not felt, since the cash income of the average Nigerian is not sufficient to provide for minimum requirement of livelihood in terms of food, water, fuel, shelter, medical care and basic education (Achor, 2001). The report of CBN 2000 shows that the nationwide incidence of poverty stands at 69.2%. From the comments of Achor (2001), the Nigerian national economic portrait akin to the albatross situation-water, water every where, but none to drink. In the midst of plenty of both human and physical resources, Nigeria is still wallowing in poverty. Due to the patriarchal nature of the society, the norms and culture, women are more affected. There are several culture restrictions and perceptions that tend to prevent women from exploring/participating in socio-economic opportunities/activities.

Poverty Alleviation in Nigeria

The possible way out of poverty reduction in Nigeria could be inferred from the fact that most Nigerians are in chains of malnutrition; there is massive unemployment, poor per capital income, low life expectancy, high adult illiteracy and other characteristics of very poor standard of living. The following policy and programmes if vigorously pursued could restore the lost hope of growth and development in the near future.

Democratic and Good Governance: In Nigeria presently democracy, is voting for politicians to enrich themselves, thus eliminating their poverty status to the detriment of the electorates who then have their poverty level increased. For better democracy and good governance the following elements must be adhered to critically. Organization of free and fair election as provided by the constitution. There should also be respect for the rule of law; commitment to economic social and educational freedom.

Opportunities for Growth

Government should be able to expand social and economic opportunities available for economic development. This is a good starting point to address the key ingredients for growth in education, infrastructure and capital in the following ways. From available statistics funding of Education in Nigeria is very low, and this should be increased, for example between 1998 and 2001 the average funds allocated to Education and National Universities Commission (NUC) as a percentage of total annual appropriation was 9.7%, which is far less than the UNESCO and World Bank recommended 20% (see Ukeje 2002). There should be discipline, accountability, transparency and probity in the education sector. There should not also be strikes without basis, wastages, unnecessary closure of schools, cultism, other secret societies and unnecessary favoritism. The duplication and competitive programmes must be eliminated in our universities. Our decaying infrastructure, like electricity, telecommunication, transport, water supply and other utility services must be upgraded and overhauled.

Specific actions are required for complete overhauling of our Airways and seaways to link rural and urban centres and to also prevent, constant air disasters. There should be caution in carrying out privatization and commercialization policies to avoid unpleasant consequences of market imperfections and failures. There should also be a genuine commitment to debt recovery, discipline, openness and accountability in the conduct of Government business. To reduce poverty to the barest minimum in Nigeria there should

be policies to determine appropriate interest rate; it should be able to determine the maximum interest rates for savings and borrowing

There should also be reduced costs of doing Government business through financial discipline, especially among the political office holders, and flamboyant living of bankers and other such public servants. There should be legislation that could enhance the take home pay of workers both in private and public sectors, with a well-structured and disciplined capital market. Appropriate foreign exchange market and rate of exchange is required, for complete elimination of autonomous black exchange markets. There should also be the introduction of Micro Credit Funds to rural men and women to check the incessant rural-urban migration to enable rural dwellers trade and expand their peasant farming into plantation agricultural practices, with the available farm land they have.

In area of security, there should be the provision of health care system through public investments for the sick and rural parents. There should be compensation to investors and farmers in case of economic shocks, crops failure or natural disasters. Payments of salaries, gratuities and pension allowances should be made as at when due.

There should be provision for comprehensive poverty alleviation programme that would cater for the poor.

Also the state of unemployment should be reduced through labour – intensive programmes, while it will also be proper to remove discrimination based on gender, race, ethnicity and social status from the Nigerian society. Industrial revolution to reduce poverty in Nigeria should be pursued vigorously. At present, computers, electronics, airplanes, motor vehicles and other essential technical products are all imported from other countries. Nigeria will be able to reduce poverty if we pass through a gradual process of our industrial revolution (Aigbokhaevbolo 1999), the current frog-jump trial and error foreign-transfer of technology and mentality, environmental and economic goods imported into the country compounds the poverty level of the populace. Foreign debts relief is also very essential in the reduction of poverty in Nigeria. There should also be direct foreign investments with favourable and enabling environment created by governments communities and individuals.

Conclusion and Recommendations

In many cases, it has been understood that the inability to meet the basic human needs like, food, shelter, water, clothing etc. is the cause of poverty. Poverty is synonymous with the poor while it is the poor who must escape from poverty (Salmen 1994). Poverty is a dominant feature of developing countries, and also more deeply associated with the rural regions. In Nigeria for instance about 75 percent of the entire population of over 140million people live in rural areas, while over 90 percent of them are subsistent farmers. The path of sustainable development in alleviation of poverty is finding the right combination of policies and programmes that will enable the poor escape poverty, and to motivate the poor to improve on their own living conditions (Salman 1994). Some of these are to accelerate better education to provide for better sustainable practices in agriculture which will help transit subsistence agriculture to offer employment (Steer, 1992).

The paper examines what poverty is, and the different types that exist; their causes and effects on economic development. The paper also concludes that poverty is an impediment to growth and as such proffers various ways to reduce the menace that has eating deep into the canker fabric of our Nation Nigeria. The way out of poverty therefore is vigorous pursuance of democracy and good governance, health, education, capital formation and accumulation, income equality and employment creation as well as glut connections, accountability, probity and transparency in doing government business are some of the ways discovered to alleviate poverty in developing countries in general and Nigeria in particular.

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INVESTMENT LEGAL RECONSTRUCTION IN DEVELOPING LOCAL WISDOM-BASED TOURISM INDUSTRY FROM INDONESIA

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Lis JULIANTI

Faculty of Law, Udayana University,
Denpasar-Bali, Indonesia
julianti.lis@gmail.com

Retno MURNI

Faculty of Law, Udayana University,
Denpasar-Bali, Indonesia

Ni Nyoman SUKERTI

Faculty of Law, Udayana University,
Denpasar-Bali, Indonesia

Putu Tuni CAKABAWA LANDRA

Faculty of Law, Udayana University,
Denpasar-Bali, Indonesia

Abstract: *The philosophical issue in this study was the liberation in international trading and in the investment in the tourism sector which eradicates the barriers of foreign countries to invest in Indonesia. The juridical issue in this paper is that there are many overlapping or inconsistent norms among one law to other laws as well as the principle of state sovereignty. The investment development in the tourism sector also raises sociological issues such as the emergence of various challenges and negative impacts as the consequence of tourism investment, i.e., economic, effect, ecological, and socio-cultural effects. This is a normative study that utilizes the laws approach, conceptual approach, and legal comparison approach. The legal materials used in this study were the primary legal material, secondary legal material, and tertiary legal material. The legal materials were collected by using a documentation study with the snowball technique. The technical analysis of the legal material used descriptive, comparative, evaluative, and argumentative techniques. The finding of this study showed that to formulate the investment regulation in the tourism sector which is based on local wisdom in the future it should use the 3R method (Reduce, Reuse, Recycle) in the management of tourism investment, further the establishment of regulation in regional level must use ROCCUPI method (Rule, Opportunity, Capacity, Communication, Interest, Process, and Ideology), in which the policy formulation is conducted by involving people participation.*

Keywords: *Reconstruction, Investment, Tourism Industry, Local Wisdom.*

Introduction

Recently, the development of investment could not be separated from the development of globalization and liberation that have created the world in global unity and it produced a free market as the manifestation of individual independence. Eventually, the role of the country is reduced and it compels the countries to survive in facing the change

caused by the contemporary reality existence. Robertson (1992) stated that globalization is a concept that refers both to the compression of the world and the intensification of consciousness of the world as a whole, which meant that globalization has developed consciousness that the world is a whole unity and there are no more separated blocks. Economic globalization is also triggered by two important issues namely technology and international trade liberation as well as foreign investment. The existence of liberation in international trade has a crucial role in the development of world industry so eventually, it could create opportunities for the economic growth of a country (Santoso et al., 2011).

Globalization and liberation in this modern era could not be separated from the history of the three pillars of the world economy through Bretton Woods. Those pillars are International Monetary Fund (IMF), International Bank for Reconstruction and Development (IBRD), and General Agreement on Tariff and Trade (GATT) which further transformed into World Trade Organization (WTO). The international law regulation concerning investment is marked by General Agreement on Tariff and Trade (GATT) in Uruguay Round in 1994. There are four agreements in GATT, namely Trade-Related Investment Measure or TRIMs, General Agreement on Trade and Services or GATS, Trade-Related Aspect of Intellectual Property Rights or TRIPS, and establishment of Multilateral Trade Organisation. WTO is a countries forum to agree on the exchange of “liberation” commitment by eradicating the barriers of trade and agreeing on terms and conditions that should be followed by the country members, such as opening reciprocal market access. Article XVI paragraph (4) of the WTO establishment agreement becomes an essential indicator for WTO to oblige the country members to adjust their regulations or trade laws with the regulations mentioned in the WTO trade Annex.

The issuance of Law No 7 of 1994 dated on 2 November 1994 concerning the ratification of Agreement Establishing the World Trade Organization has officially recruited Indonesia to be a WTO member and all agreements within the WTO has become national legislation (Janed, 2016). Further, the implementation of principles in GATT in the investment sector is accommodated by Law No 25 of 2007 concerning Investment (hereinafter referred to LoI). One of the reasons for the issuance of Law No 25 of 2007 concerning Investment is related to increasingly fierce competition among the nations, so the policy of investment should create the national economic competitiveness to support the integration of the Indonesian economy into the global economy.

Investment involves many sectors including tourism. The tourism that is studied in this research is tourism from the perspective of investment legal. Tourism could not be separated from global society so it is a basic human need and a part of respected and protected human rights as stated in Article 28 of the 1945 Constitution of the Republic of Indonesia. In present globalization, tourism as a basic need that is respected as a human right is believed capable of improving national economic growth. The understanding related to reciprocal principle and does not differentiate country of origin: Article 3 paragraph (1) of LoI mentioned that investment is based on the principle of equal treatment and does not discriminate from the country of origin. It means there is the same treatment for foreign and domestic investment. It opens an opportunity for investors to invest in all sectors, so it violates the constitution because it leads to liberation. Surely, it is not in line with the Regulation of President of the Republic of Indonesia No77 of 2007 concerning List of Closed and Open Business with Requirements in the Investment Field. Likewise, the Law of Tourism in Article 14 does not provide a clear and decisive description

concerning the permitted businesses in the tourism sector. It could affect the local people's life in which the investment is invested. Based on these regulations, it could be seen that there is an inconsistency from one regulation to other regulations, in which one regulation permits while the other prohibited.

The philosophical issue in investment legal in the tourism sector is there is an impact of economic globalization which causes liberation in the world trade system so every country is urged to provide the same opportunity and treatment to other countries to invest in especially in the developing countries. The implementation of WTO agreement liberation principles in the Laws in the sector of economic development in Indonesia, as stated in LoI is basically in line with the principle of Pancasila and the 1945 Constitution of the Republic of Indonesia. On one side, the development of the Indonesian economy is aimed at realizing social justice for all Indonesian as the ultimate goal of implementing the principle of Pancasila and the 1945 Constitution of the Republic of Indonesia (Hadi et al., 2012). Investment activity is principally intended for improving the economy of a country to realize prosperity and fortune for all levels of society and fulfill demands for tourism goods and services to obtain maximum profit. However, in reality, investment in the tourism industry brings the chaos of values and norms marked by the profanation of holy places for tourism purposes (Landra, 2018). It has a bad impact on the environment and people's life in many regions of Indonesia. Spatial planning based on the values of local wisdom in the area is neglected, so that physical development is often carried out in areas that endanger the preservation of the natural environment or which are seen by the community as sacred areas that are sacred.

The juridical issue in this paper is that there are many overlapping or inconsistent norms among one law to other laws as well as the principle of state sovereignty that ultimately reduce the role and participation of the people in conducting protection of the values living and developing in the region, especially related to investment in the tourism sector. Therefore, there should be a synergized, harmonious, and specific regulation upon the local wisdom living in the society in implementing tourism investment for the sake of people's prosperity at all levels through the regulation protection. The juridical issue related to the overlapping investment regulation in the tourism sector and the existence of local wisdom has brought sociological problems in terms of the urgency of the territory of customary law society in conducting their customary and cultural activities because of the expansion and exploitation of the tourism investment activities. This issue also occurs in all Indonesian territories such as the project of food estate and integrated energy in Merauke, Papua (Mar, 2011), in the tourism investment business which is based on research in Nusa Ceningan related to the customary society and natural resources as the tourism potency, the territory of Paperu Cape, which is well-known as Souino Cape, causes the degradation of the main jobs of the local people (Aliansi Masyarakat Adat Nusantara, 2013), the waiver of the living area of Balinese customary society in Ungasan Village, Badung Bali (Hazliansyah, 2014) and the case of boat dock (jetty) with the dredging and backfilling of materials in the beach area of Semaya Sub-village, Suana Village, Nusa Penida Sub-district (NV, 2018).

Based on the above description, the research problems could be formulated as follows:

1. What is the principle of investment regulation in developing the local wisdom-based tourism industry?

2. Has the investment regulation in the developing tourism industry been regulated in the laws?
3. What is the model of regulation which regulates tourism industry investment which is based on local wisdom in the future?

Methods

This is a normative study that utilizes the laws approach, conceptual approach, and legal comparison approach. The legal materials used in this study were the primary legal material, secondary legal material, and tertiary legal material. The legal materials were collected by using a documentation study with the snowball technique. The technical analysis of the legal material used descriptive, comparative, evaluative, and argumentative techniques.

Results and discussion

The Nature of Investment Regulation in the Development of the Tourism Industry Based on Local Wisdom

According to Joseph Battat (2010), investment policies reflect what governments see from investment to meet national objectives, as well as the rights and responsibilities they assigned to investors and investment. The investment policies are incorporated later in the investment law, accordingly, the investment policies and investment laws must be harmonious. The regulation in the investment laws must reflect the investment policies because the investment laws and regulations are a legislative instrument for implementing the policy (The World Bank, 2010) and be functional for translating the investment policies into implemented legal terms. Therefore, investment policies must be clear so as not to hinder the establishment process or investment laws regulations since investment policy formulation is a prerequisite to investment legislation drafting (OECD, 2006). The development related to foreign investment arrangement was marked by the General Agreement on Tariff and Trade (GATT) in Uruguay Round in 1994 and further became World Trade Organization (WTO). In this agreement, there is a provision related to an investment called TRIMs. This provision regulates all countries agree to sign an agreement that contains an agreement that all their laws do not differentiate foreign and domestic investment. Further, it became the basis of investment policy regulation in Indonesia by adhering to the principle of equal treatment regardless of country of origin.

The regulation of investment in Indonesia has been established in Law No 25 of 2007 concerning Investment. Based on Article 4 paragraph (2) of Law No 25 of 2007 concerning Investment, the government that establishes a basic policy of investment must concern several issues such as providing the same treatment for foreign and domestic investment by considering national interest. The consequence of the same treatment for foreign and domestic investment is that all opened and closed sectors or kinds of businesses are based on requirements. The opened sector with requirements for foreign and domestic investment is based on some criteria as stated in Article 12 LoI. The policy related to the list of opened and closed business sectors with requirements is known as the Negative List of Investment (NLI) (Negative List of Investment (NLI) is the regulation of closed and opened business sectors with requirements in investment). This policy is the legal

foundation for the investor in investing in Indonesia. Besides that, NLI is aimed at protecting the Indonesian economy as well as allowing the investor to be free in running business activities. One of the biggest incomes of Indonesia comes from the tourism service sector, while the fact of GATS and TRIMs implementation, especially in the tourism service sector causes a weaker position compared to the developed countries in the agreement. It is one of the implications/effects of the implemented liberalization (Dewi, 2021). Tourism is an integral part of national development which is conducted systematically, well-planned, integrated, sustainable, responsible by maintaining protection for the religious values, the culture of the community, environmental sustainability, and quality (Kurnia, 2019).

One of the tourism management principles that is specified in Article 5 letter c is the principle of providing benefits for the welfare of the people, justice, equality, and proportionality. This principle reassures that people's welfare becomes one of the principles that should be considered in managing tourism. Based on the theory of the welfare state, the concept of the welfare state is a foundation for the government's function and position in modern countries. The welfare state that is a modern law state is an antithesis from the concept of formal law state (classic), which is based on the thought to conduct strict supervision upon the state power (especially executive) in which in the absolute monarch era has been proven conducting many cases of abuse of power (Tim Riset PSIK. 2008). Tjandra (2004) in his book explained the concept of the welfare state is ideologically the most appropriate with the purpose of creating people's welfare and technically is marked by the escalation of the qualitative and quantitative roles of the state through the regulation and distribution role to direct the people for welfare. A welfare state is shortly defined as a democratic government that positions the state as an institution responsible for people's welfare, through a series of public policies in integrating economic and social policies for the achievement of welfare and social justice (Kurnia, 2019).

Based on the description, the philosophy of investment regulation policy in the tourism industry which is based on local wisdom can be described as follows:

1. That the investment regulation in the tourism industry is driven by the pressure of economic globalization that demands liberation in investment by eradicating barriers for developed countries to invest in the developing countries. Investment in the tourism industry is an economic pillar that could improve the national economy so it could provide welfare for the people.
2. Indonesia is an archipelago that consists of various ethnicity, culture, and customs. It becomes one of the attractions of tourists to visit. The main commodity of Indonesian tourism could not be separated from natural sources, cultural sources, and local wisdom living in the community.
3. The exploitative tourism industry further threatens the existence of people's life, local cultures and is replaced by the culture of commercialism, liberalism, and individualism. Therefore, there should be a policy that specifically regulates investment implementation in the tourism industry that protects local wisdom so it could create a conducive investment climate, sustainable tourism, and prosperous local community life.

Regulation of Investment Activities in the Development of the Tourism Industry Based on Local Wisdom

Investment activities have been started since colonial times. The history of investment has emerged in European countries, which was initially conducted in Asia, the Middle East, African countries, and other parts of the world. Meanwhile, the history of investment activities in Indonesia has been started since revolution times, i.e., by the issuance of Law of the Republic of Indonesia No 78 of 1958 concerning Foreign Investment. Then, the policy of foreign investment was abolished in 1965 along with the political turbulence at that time, so the Law of the Republic of Indonesia No 78 of 1958 concerning Foreign Investment was abolished. At the time, the purpose of economic development was based on the principle of independence free from imperialism and feudalism. Afterward, the foreign investment activities were restarted in Indonesia in 1967 with the establishment of Law of the Republic of Indonesia No 1 of 1967 concerning Foreign Investment and Law of the Republic of Indonesia No 6 of 1968 concerning Domestic Investment. These two instruments were expected to facilitate both foreign and domestic investors to invest in Indonesia. The goal of the government to accelerate national development that was driven by the global economic change and the membership of Indonesia in several International Partnerships has driven the Indonesian Government to issue Law of the Republic of Indonesia No 25 of 2007 concerning Investment. The ultimate goal of this Law is to improve national economic growth.

In an International Law Framework, the arrangement of investment is regulated through TRIMs. The agreement of TRIMs aims at eradicating the barriers of trade to improve the freedom of investment activities (Janed, 2016). The regulation of TRIMs 1994 is a reaffirmation and provides a time for the GATT countries' members to fulfill the obligation of investment regulation (Hata, 1998). Based on the comparison of regulation from some countries related to the investment regulation policies such as Singapore, Malaysia, Thailand, China, and South Korea, it can be concluded that almost all countries adopt an open system in their investment regulation policies, and there is a limitation policy in various sectors which is regulated for investors. This limitation is established for protecting the host-country national interest and provides economic protection for host-country. From those countries that have been mentioned before, the policy of Thailand is similar to the Indonesian policy, in which the policy of investment considers the values of arts, cultures, people's traditions, natural sources, and environment. It explains that Thailand respects and honors the local wisdom that is living and developing in the community as well as preserving the sustainability aspect in the investment activities. Besides that, Thailand also regulates the limitation of investment upon the citizen economy, so the investment that jeopardizes national security and interest is not allowed by the government.

Model of Regulation of Investment Activities in Tourism Industry Development Based on Local Wisdom

In today's globalization era, there is tight competition in seizing potential investors to invest in a country. One of the efforts to attract investors is exploring the comparative strengths owned by the country to create a more conducive investment climate. One of the sectors that use comparative strength as the material is the tourism sector. Investment in the tourism sector is an industry that orientates on providing services needed by the tourists. John Naisbitt (1994) in *global paradoks* stated that tourism globalization is the biggest industry in the world. Tourism is the strongest and biggest moneymaker in the global

economy financing. One of the biggest challenges in realizing a conducive tourism investment climate is preventing the environmental damage and the risk of climate change that could threaten the tourism industry. The issues that should be considered in solving those challenges are through the improvement of efficiency by using environmentally friendly energy sources.; using the method of 3R (Reduce, Reuse, Recycle) in processing the garbage; environmental maintenance; mitigation of climate change; and increasing knowledge to the public and tourists about the risks of climate change and how to deal with it.

The development of tourism in Indonesia should be based on principles, ideology based on global tourism ideology, green tourism ideology, and culture tourism ideology based on local wisdom. Indonesia has a magnificent natural potency in developing tourism, so it could provide income for Indonesia that potentially replaces oil and gas. The theory that can be used to find a regulation model for investment in the tourism service industry to create a conducive investment climate so it could protect the communities' values is The Middle Path Theory. This theory helps to identify the benefits of investment as well as the negative impacts caused by the investment so it could develop a fair regulation policy and ultimately drives the development of a Code of Conduct for the investors, especially for the multinational companies in Indonesia. To formulate the model in the reconstruction of investment legal regulation in the tourism industry based on local wisdom in the future, in this case, the Integrative Legal Theory was used to formulate the model of this policy. Integrative Legal Theory provides enlightenment regarding the relevance and meaning of the legal importance in the life of Indonesian as well as reflects the law as the system that regulates human life could not be separated from its people's culture and character, the geographical location of the environment and the way of life of the people.

To realize a policy in the investment law of tourism based on local wisdom, the policy establishment must be formulated to be effective and responsive. Therefore, the method ROCCIPI (Rule, Opportunity, Capacity, Communication, Interest, Process, and Ideology) is used to establish regional regulations. This method is based on the concept proposed by Robert B. Seidman, i.e., in formulating laws and regulations that could solve social problems, so the point is that the step of the formulation should be through research that is followed up with a research report and formulation of laws and regulations draft.

Conclusion

Based on the description above, some conclusions can be drawn as follows:

1. The essence of investment regulation in the developing tourism industry based on local wisdom is driven by the liberation of investment by eradicating barriers for the developed countries to invest in the developing countries. The exploitative tourism industry further threatens the existence of people's life, local cultures and is replaced by the culture of commercialism, liberalism, and individualism.
2. The investment regulation in developing tourism industry in the laws and regulations still have many problems in case of many related investment regulations are overlapping both in central and regional level as well as inconsistency between one law to other laws, or with the state sovereignty which ultimately reduce the role and participation of the people in protecting the values that is living and developing

in the place. There is no further regulation in the region. The development of the tourism industry is merely based on central government regulation.

3. The model of investment regulation in the tourism industry based on local wisdom for the future is conducted by using the 3R method (Reduce, Reuse, Recycle) in tourism investment management. The policy regulation is conducted by establishing a regulation at the regional level to explore and protect tourism commodity that comes from local wisdom. To ensure the establishment of this regulation is effective and responsive, the method of ROCCIPI (Rule, Opportunity, Capacity, Communication, Interest, Process, and Ideology) must be used.

Based on these conclusions, some suggestions are recommended as follows:

1. It is recommended that legislators add provisions and emphasize aspects of local wisdom in LoI especially in the foreign investment activities, to maintain and preserve local wisdom that is mandated in the Pancasila and Constitution of the Republic of Indonesia 1945, so it will not cause inconsistency in the implementation.
2. It is suggested to the local government to formulate a regulation in tourism investment by listing local wisdom that should be protected in the tourism investment activities as well as a form of people's participation in formulating regulation.
3. It is suggested to the people in developing local investment, especially in the tourism sector, they must consider the balance between the state law and customary law, so the management and control of natural resources in the area can be managed properly, and ultimately guarantee the sustainability aspect in the development of tourism industry by proposing local wisdom as the commodity.

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STATUS AND CHALLENGES OF PREPARING AND SUBMITTING FINANCIAL STATEMENTS TO CONSTRUCTION COMPANIES IN GEORGIA

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Lela KHELADZE
Kutaisi University LTD
Kutaisi, Georgia
Lelakheladze92@gmail.com

Abstract: *The purpose of financial reporting is to provide information to a wide range of consumers about the financial condition, operating results, and changes in financial position of an enterprise to assist them in making economic decisions. The purpose of financial statement analysis is to assess how effectively management manages the enterprise and how reliable it is for its partners. Its purpose is to provide those who make economic decisions with sound conclusions about changes in the firm's financial condition and financial position. Thus, the analysis of financial information is important when making decisions. At present, the practice of preparing financial statements by enterprises and providing them to customers in the construction business in Georgia faces certain challenges. This is based on the almost impossibility of obtaining information from them in the research process. Despite our multifaceted efforts, it has been problematic to obtain financial reporting from even the largest construction companies in the residential real estate market.*

Keywords: *construction companies, financial reporting, Publication of reporting, publicity of reporting, Accounting, Auditing.*

Introduction

The construction company is functioning properly and functioning. The result of the actual analysis may be an expected prognosis for further safety, or whether or not all of this is avoided in anticipated information. The main basis of the general analysis is reporting. We believe that one of the reasons for the bankruptcy of major companies is the regulation of equipment systems in the enterprise and the threat of a practical lack of practical and experience in reporting analysis. If the aim is to study what resistance and how construction companies carry out commodity management planning and raising capital. From there, on which the particles of factors that act by stimulating factors work, as well as acting by stimulating factors that act on the state of the body of factors. Preventive measures will be taken. The subject of the research is the general analysis of the main companies and its complete content.

Method: The methods of economic and financial analysis, the method of abstraction, grouping, detailing, comparison, coefficients, etc. will be used as methodological bases of the research. The research is based on general scientific methodological approaches: analysis and synthesis, deduction and induction, analogy, modeling, abstraction and dynamic method. Quantitative and qualitative methods were used for the study. Primary and secondary information were obtained and used to achieve the research objectives.

Sample description: Primary information was obtained through quantitative research methods such as telephone interviews and structured questionnaires. Through interviews and questionnaires, we collected data that were processed in the research process according to a quantitative research method, content analysis. Content analysis is the most common form of textual analysis, which involves summarizing the statistical information obtained and presenting it in a proper form (Cooper, Schindler: 2018. 56).

Secondary sources of information were scientific literature, statistical information and Internet resources. We compiled a list of research objects. Due to the lack of official information, the list of construction companies we have found may not include almost all enterprises, however, we think that it characterizes the residential real estate market of our country in quite detail. The survey was conducted electronically from November 1, 2021 to December 15, 2021. We used all the resources at our disposal to obtain the information needed for the research. Internet sites allow us to obtain contact information of construction companies (e-mail address and / or telephone number), through which we tried to contact the representatives of construction companies in person and provide information about the completed e-questionnaire by phone. We have not received any response to the email sent to the email addresses posted on the internet. We called the contact phone number on the Internet with more than 150 registered construction companies, of which we were able to contact only 53 cases. Of these, 32 respondents categorically refused to participate in our survey. Only 2 respondents agreed to fill in the electronic questionnaire with the company identification number. We finally decided that the questionnaire was anonymous and the respondents did not need to provide identification data. Communication with up to 40 respondents was carried out through the social network Facebook chat. In the end we got 23 answers.

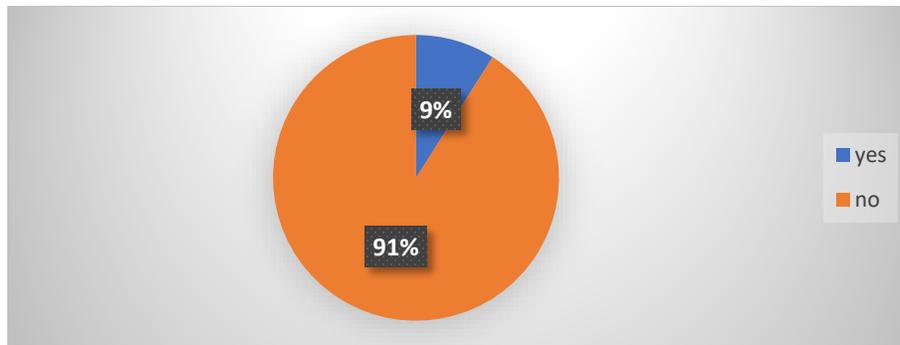
In Georgia, due to partial misconceptions about accounting and its purpose, as well as, in many cases, insufficient economic education of the founders of the enterprise and the management, we did not really expect that all the companies we found would provide us with financial reporting information. This sentiment was based on the fact that according to the common practice, the sole purpose of accounting in most enterprises is to fill in tax returns correctly and avoid fines. The construction business is no exception in this regard. Moreover, due to the specifics of the activity, the housing companies not only did not prepare financial statements, but in some cases did not even use accounting for tax returns. As a result of personal communication, it was found that in most enterprises, the concept of financial reporting is synonymous with tax returns. Representatives of companies with relatively orderly management refused to provide financial statements on the grounds that the information was confidential. Our research aims to identify the key risks that most affect the process of preparing and submitting financial statements to construction companies operating in Georgia.

Results: We used qualitative research methods to summarize and present the research results clearly. In the data analysis process, we used various methods of qualitative data analysis, namely: systemic content analysis, which shows the systematic summarization and presentation of research results and is the most common form of textual analysis, and interpretive analysis, Identifying problems (Tsuladze: 2020. 33). 43% of respondents are based in 2001-2005 and 30% in 1995-2000. Thus most of the respondents have more than 20 years of experience in the construction industry. Therefore, we conclude that most of the respondents have adequate knowledge of their position and, consequently, the ability

to identify risks. Thus, it can be considered that the information obtained from them is reliable and important for achieving the set goals. 56.5% of respondents are third category enterprises and 43.5% are fourth category enterprises. This means that according to International Financial Reporting Standards, each of them is required to submit financial statements to the Accounting, Reporting and Auditing Supervision Service electronically (Order of the Head of the Accounting, Reporting and Auditing Supervision Service № 10, Article 2021 15 15).

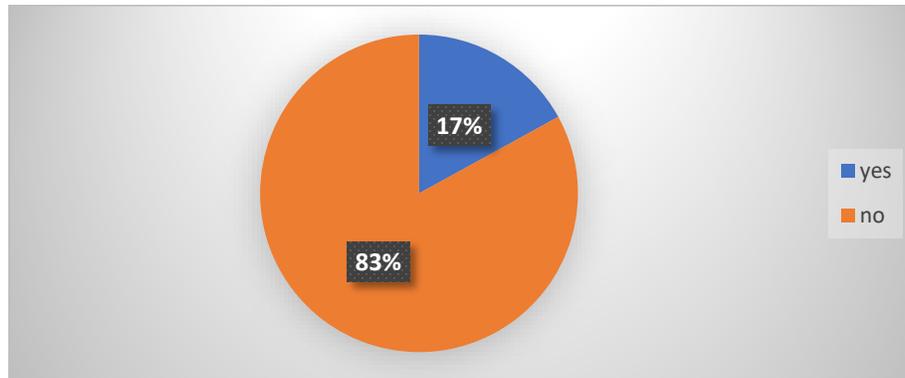
According to the survey results, the main source of funding is bank credit and / or advance payments (72%), while in other cases, state funding, own funds or other income. When asked what methods companies use to improve the skills of their employees, 95.5 percent of respondents named other trainings / advanced training courses. In order to encourage employees, 91.3% of respondents respond with verbal or written thanks, while the remaining 8.7% may receive a bonus, additional days off or a paid gift. That the activities of the respondents are most affected by the increase in prices for construction materials and the restrictions imposed due to the Covid-19 pandemic, which in turn leads to the problem of attracting funds and the outflow of staff from jobs. One of the main problems for companies in the current period is the remuneration of employees for working hours due to the pandemic, hence it is difficult for companies to retain employed staff. Employees left without pay have very little compensation received from the state, so they are forced to avoid unemployment and leave the job on the basis of a personal application. This is a big problem for the construction company itself, because after a certain period of time the company has to spend additional resources to find and train new staff, however in the current period due to problems with attracting funds companies are practically unable to pay staff when the work process is suspended or delayed. The problems are interdependent. When asked what methods and techniques companies use to manage / prevent risks, we can conclude from the answers that most companies carry out identification and assessment of risks, however, due to the current volatile situation and the impact of socio-economic background, it is difficult to eliminate these risks. The surveyed construction companies conduct performance appraisals in the main case (56%) by assessing the financial stability of the company or by assessing the quality of staff performance (33.5%). When asked if the company's financial management service operates independently of the accounting department, the results are as follows:

Chart 1



Asked if the company has had publicly published audited financial statements for the past 5 years continuously, the results are as follows:

Chart 2



Source: Diagrams are compiled by the author based on the results of the research

Discussion: The survey results show that in many cases companies do not have an approved accounting policy or do not comply with the requirements of this accounting policy, in many cases there is no separate financial and internal audit service, so financial management issues are delegated to the company manager and internal audit functions remain unfulfilled. Is still partially delegated to the Company Accountant. This circumstance can be considered as the cause of a number of problems, as the existence of financial and internal audit services in the organization significantly changes the overall picture of the company's operation, without which it is clear that the company has difficulty functioning properly. The answers to the question of what are the main problems faced by the Company's Financial Service in the process of preparing and submitting financial statements are as follows:

- Inconsistency of legislative records - 52%
- Non-compliance of practices with legal requirements - 78%
- Deadline for submission of reports 34%

During the research process, we spoke with the founders, CEOs and CFOs and Accountants of a number of construction companies. We talked about the preparation, submission and analysis of financial statements. Conversations with these individuals have reinforced our view that most construction companies not only do not prepare financial statements but also do not distinguish between financial reporting and tax return. As a result of the research, we can emphasize that at present construction companies have an accounting system and all information is programmatically processed in accounting, although this information is mainly used only for tax reporting purposes and not for the preparation of financial statements. The unpreparedness and inaccessibility of financial reporting on the one hand poses a serious problem in various areas, which we think need to be addressed at the legislative level.

At the same time, we partly share the view that business should develop on its own, and that direct state intervention in terms of requiring certain rules to be followed by business runs counter to the basic principles of a free market economy. Imposing financial reporting obligations on construction companies has led to entrepreneurs protesting the increase in administrative costs (hiring qualified staff is required). However, we think that the issue of preparing, submitting and analyzing financial statements should be considered in the context of increasing multifaceted efficiency in a more long-term context.

Thus, based on the analysis of the results of our research, it is possible to formulate the main conclusions and suggestions of the existing problems identified in the research process:

- Preparation and analysis of financial statements will significantly help the construction companies themselves (both the management and the owners) to make an objective assessment of the past activities and make accurate forecasts. Take preventive measures in case of trends.
- The ability to analyze financial statements will increase the interest of potential investors in investing in a particular company, which in itself will help construction companies to find an alternative source of funding, which is why companies need to provide financial reporting in business language;
- Availability of financial statements will allow stakeholders to calculate the average risk ratios of this particular area so that investors can conduct a comparative analysis. Therefore, companies should ensure that the audited financial statements are made public;
- Preparing and submitting financial statements will promote business transparency, which is part of the corporate responsibility of the people who buy the construction product. Therefore, we consider it expedient to provide special training for financial managers and accountants in the construction sector, which will be designed directly with the specifics of the field and will help staff working in this field to carry out activities in accordance with the law.

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HIGHLY UNUSUAL FEATURES OF THE 2020 U.S. RECESSION

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Suk KIM

College of Business Administration, University of Detroit Mercy
Detroit, Michigan, USA

Min XU

College of Business Administration, University of Detroit Mercy
Detroit, Michigan, USA
xumi@udmercy.edu

Jeanne DAVID

College of Business Administration, University of Detroit Mercy
Detroit, Michigan, USA

Abstract: *On June 8, 2020, a group of economists declared that the U.S. economy entered a recession as the Covid 19 struck the nation, thereby ending the longest economic expansion on record. They concluded that employment, income, and spending peaked in February 2020 and then fell sharply afterward as the coronavirus shut down businesses across the country, marking the start of the downturn after nearly 11 full years of economic growth. The National Bureau of Economic Research (NBER) has become the official arbiter of recessions. It broadly defines a recession as “a decline in economic activity that lasts more than a few months.” For that reason, the NBER typically waits longer before making a determination that the economy is in a downturn. In the Covid 19 recession, the NBER did not declare that the economy was in recession until July 19, 2021, a year after it had actually begun. The major objective of this article is designed to discuss four unusual features of the latest recession: 1) the major cause of the recession, 2) the K-shape recovery, and 3) the government rescue effort, and 4) inflation spike.*

Keywords: *Covid 19, Recession, Inflation Spike, K-Shaped Recover, Federal Fund Rate*

JEL Classification: *E31. E44. E 62*

Introduction

Covid 19, also known as the coronavirus pandemic, has been an ongoing global pandemic of coronavirus disease since 2019 caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The virus was first identified in December 2019 in Wuhan, China. The World Health Organization (WHO) declared Covid 19 as a Public Health Emergency of International Concern on January 30, 2020, and later declared a pandemic on March 11, 2020. As of January 2, 2022, the Google News confirmed a total of 289 million Covid 19 cases and a total of 5.4 million Covid 19 death worldwide, making it one of the deadliest pandemics in history. This same news confirmed a total of about 55 million coronavirus cases and a total death of 822 hundred thousand in the United States. Almost all countries around the world restricted free movement and set up border controls. National reactions have included containment measures such as quarantines and curfews (known as stay-at-home orders, shelter-in-place orders). Such restrictions have

had a negative economic and social impact on the US and just about every other country in the world (US Government Response to Covid 19, August 27, 2021).

The real gross domestic product (GDP) of the US—economic output adjusted for inflation—fell at an annual rate of 5.0% in the first quarter of 2020 and fell at an annual rate of 31.4% in the second quarter of 2020, the largest quarterly decline on record. GDP partially recovered in the 2nd half, but the U.S. economy shrank by 3.5 percent in 2020 as the coronavirus pandemic ravaged factories, businesses and households, pushing U.S. economic growth to a low not seen since the United States wound down wartime spending in 1946 (Siegel, Dam and Werner, 2021). The Bureau of Economic Analysis estimated that as of the first quarter of 2021, it was still 0.9% lower than in the fourth quarter of 2019, before the pandemic began (see Figure 1) (Congressional Research Report, R46606).

The major objective of this article is designed to discuss a number of highly unusual features for the latest recession that past US recessions have rarely faced: 1) The major cause of the recession, 2) the K-shape recovery, and 3) the government rescue effort, and 4) inflation spike.

Figure 1. Real Growth Domestic Product (GDP)



Source: Bureau of Economic Analysis (BEA).

Note: Data using billions of chained 2012 dollars seasonally adjusted at annual rates.

*We obtained Figure 1 from Congressional Research Service (R46606), Covid-19 and the US Economy, May 11, 2021, p. 4.

The major cause of the recession

Almost all past US recessions had happened mainly due to the economic reasons. Causes of some specific recessions are the boom bust—easy money (the Great Depression), the Arab oil embargo against the US and other Western countries (1973 recession), tight

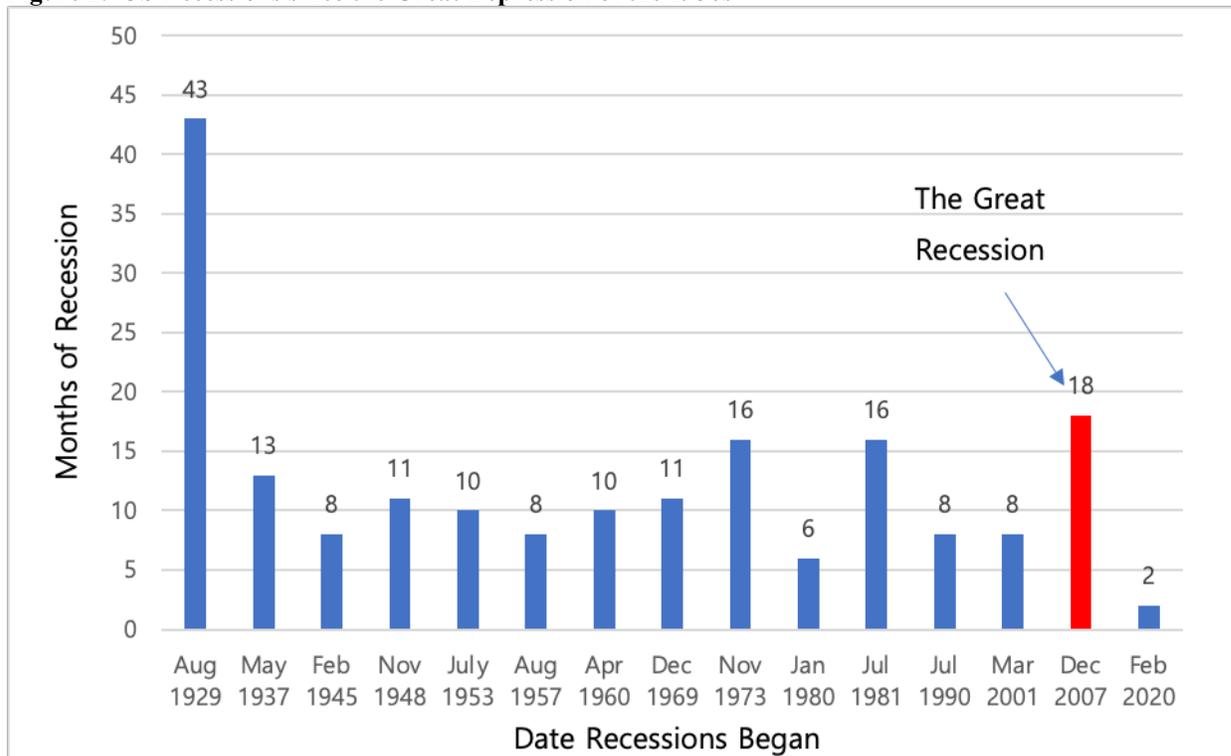
monetary policy in an effort to fight mounting inflation (1980-81 recession), and the subprime mortgage crisis (the 2008 great recession). Between 1980 and 1982 the U.S. economy experienced a deep recession (usually known as a double dip), the primary cause of which was the disinflationary monetary policy adopted by the Federal Reserve System. One noteworthy recession in Figure 2 is the 1981-82 recession that received a lot of attention. This is because just everybody called “inflation was a public enemy number one” at the time and the government adopted a tight monetary policy to make the recession even worse on purpose (Wikipedia, “Early 1980s recession”).

Unlike past US recessions caused by economic reasons, the United States entered into a recession in February 2020, a result of the Coronavirus Disease 2019 (Covid 19) pandemic. To prevent the spread of Covid 19, lockdown orders were issued in many parts of the country and travel restrictions were put in place. These measures, along with general fears of the coronavirus, caused swift and large aggregate demand and supply shocks that resulted in the deepest economic downturn the US has seen since the Great Depression (Congressional Research Service, R46606).

The fall and rise of the US economy caused by Covid 19 have been sharpest. For example, “employment in the United States experienced the sharpest decline on record in April 2020 as the negative economic effect of the Covid 19 pandemic and social distancing measures caused employers to cut almost 21 million jobs as unemployment rate jumped to 14.7 percent” (Cox, 2020). The next largest single month decline was almost three quarters of a century earlier, in September 1945, when almost 2 million jobs were lost (Nutting, 2009). On the other hand, the Covid 19 recession turned out to be the shortest on record. As shown in Figure 2, the Covid 19 recession lasted for only two months from February to April 2020, while all other recessions for the last 90 years lasted more than 6 months. In fact, this latest recession is the only recession that failed to meet the textbook definition of recession, thereby implying that the Covid 19 recession is one of the worst recessions on record.

As mentioned earlier, the pandemic, along with the resultant stock market crash and other impacts, led a recession in the United States following the economic cycle peak in February 2020. The economy contracted 4.8 percent from January through March 2020, and the unemployment rate rose to 14.7 percent in April. During the second quarter of 2020, the U.S. economy suffered its largest drop on record, with GDP falling at an annualized rate of 32.9 percent. As of June 2020, the U.S. economy was over 10 percent smaller than it was in December 2019 (Long 2020, Abelson 2020, and Tapee 2020). Most economic statistics of the United States deteriorated dramatically from February 2020 until June 2020, but most economic sectors began to improve in July 2020.

Figure 2. US Recessions since the Great Depression of the 1930s

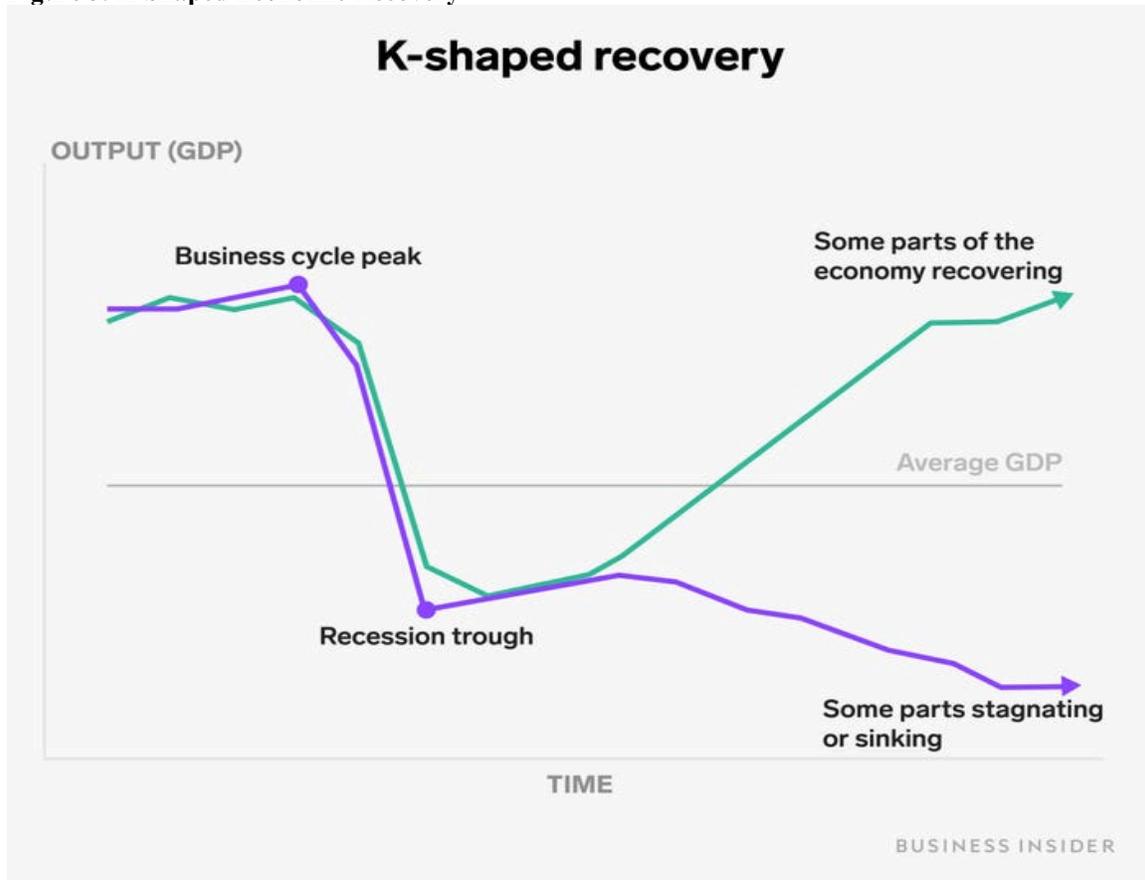


The K-shaped recovery

Economies can get out of recessions in a variety of different letter shapes, such as V, U, W, L, and K. A recession is a significant economic downturn generally identified by a fall in GDP in two successive quarters. Figure 2 will help understand these most common letters used to characterize all these various recovery paths. After a recession hits its lowest point, the economy begins to grow again. But it can recover in several different shapes (Aldrich, 2021). The economy can bounce back immediately to its pre-recession level (V-shaped recovery, such as the 1980 recession). It declines and then spends a significant period of time at the trough before recovery (the U-shaped recovery, such as the 2007-2009 recession). It can bounce back and then dip again (the W-shape recovery, such as the early 1980s). It can remain near the low point and take years to fully recover its former levels of output (L-shape recovery, such as the great depression of the 1930s).

The K-shaped recovery is a relatively new term created to describe what economists see happening with the Covid 19 pandemic. In this situation, one segment of the economy trends upward — experiencing more of a V-shaped or U-shaped recovery — while another segment either sinks further or recovers much more slowly, like the L-shaped recovery. As shown in Figure 3, this divergence between two different economic groups is depicted by the two diagonal lines in the letter K. The affected groups consist of both industries and individuals.

Figure 3. K-Shaped Economic Recovery



Source: Erin Gabler, “What is a K-Shaped Recovery?” The Balance, April 5, 2021, <https://www.thebalance.com/k-shaped-recovery-5120738>

The economy rebounded in the second half of the 2020 as it reopened, with sharp gains in employment and consumer spending over the summer that were helped by trillions of dollars in government aid. However, some industries such as health care, recreation, transportation, and business investment, and private inventories have suffered a major slowdown or been virtually unable to function, while others such as durable goods, food and beverage, government spending, residential investment industries, and e-commerce, have been able to continue operating or have even thrived during the pandemic. Similarly, individuals have been affected along class, generational, and racial lines. Low-income or paycheck-to-paycheck families, young adults, and Black and Hispanic Americans have largely struggled to recover. In contrast, many white and upper-class families have bounced right back, especially if their wealth is concentrated in the stock market (which is also on the rebound). The recession didn't necessarily cause these disparities. But the K-shaped recovery has certainly uncovered, and in some cases, greatly exacerbated, the already existing inequalities (Torry, 2020).

Government rescue efforts

Between 2008 and 2012, the federal government spent roughly \$1.8 trillion of fiscal stimulus and other economic support to combat the Great Recession (The Committee for a

Responsible Federal Budget, 2020). By companion, the US government had spent and/or committed a total of \$4 trillion in response to the coronavirus as of October 20, 2020. At \$4 trillion, the assortment of grants, loans and tax breaks has already been the costliest economic relief effort in modern history. The Great Recession funds were mostly distributed over five years, but the current relief would be distributed more quickly. Furthermore, the Congress and the federal government expected to spend more money in some other forms such as infrastructure and social spending not directly related to the Covid 19, but to stimulate the economy (Whoroski et al., 2020). On November 8, 2021, Congressional Budget Office reported that “In fiscal year 2021, the federal deficit totaled nearly \$2.8 trillion—about \$360 billion less than in 2020, but nearly triple the shortfall in 2019. That deficit was equal to 12.4% of GDP, down from 15.0% in 2020, but up from 4.7% in 2019.” At 12.4 percent of gross domestic product (GDP), the deficit in 2021 was the second largest since 1945, exceeded only by the 15 percent shortfall recorded last year (Congressional Budget Office, 2021).

In addition to this easy fiscal policy adopted by the executive branch, the Federal Reserve System adopted an easy monetary policy to increase the money supply through open market operations, the federal fund rate, and other instruments. For example, the Federal Reserve System purchased Treasury and agency securities in the amount needed and lowered the existing low federal fund rate even lower in March 2020 (International Monetary Fund, 2021) (see Figure 4). The federal funds rate is the target interest rate set by the Federal Open Market Committee. This is the rate at which commercial banks borrow and lend their excess reserves to each other overnight. The Covid 19 recession lasted only for two months, but the government has spent a lot more money than the Great Recession which lasted for 18 months. Some experts warn that such unprecedented easy fiscal and monetary policies would eventually create inflation spike such as the early 1980s which will be bad for the US economy in the long run.

Figure 4: Historical Chart of Federal Fund Rate



Note: Light shaded bars in the figure indicates recessions and the width of each bar indicates the length of the recession.

Source: Board of Governors of the Federal Reserve System (US), Federal Funds Effective Rate retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/FEDFUNDS>, January 7, 2022

Inflation spike

Inflation is a double-edged sword: Higher interest rates may follow which will help savers to earn money, but higher prices for goods and services could erase those gains (Iacurci, 2021). However, inflation spike is bad for any national economy in the long run because it erodes purchasing power and disrupt the sustainable economic goals of the country's macroeconomic policy. There are a variety of causes for potential inflation spike, all of which have one common denominator—man-made. On June 10, 2021, for example, The Wall Street Journal explained the man-made potential inflation spike as follows: "Nobody should be surprised that prices are increasing everywhere from the grocery store to the car dealership. Demand is soaring as the pandemic recedes while supply constraints linger, especially in labor and transportation. As always, this is a price shock largely made by government. Congress has shoveled out trillions of dollars in transfer payments over the past year (2020), and the Federal Reserve System has rates at zero while the economy may be growing at a 10% annual rate (Land, 2021)." It is important to understand that the federal fund interest rate in the early 1980s had been extremely high so the Federal Reserve System created the two recessions by adopting the tight monetary policy on purpose (see Figure 4). Experts warn that this unpleasant history might repeat itself unless the government continues to use an easy economic policy for short-term gains.

Many people welcomed such a massive economic stimulus package because it would definitely create short-term economic boom. At the same time, some other people expressed serious consequences from such a quick-massive spending. The Covid 19 aid could cause problems by fueling inflation, increasing the budget deficit, allowing politicians to use surplus money for their political purposes, and giving people receiving unemployment benefits in an incentive not to work. For example, many states turned down unemployment aid because workers do not want to look for jobs. In fact, many employers, especially the service industry, began to face a labor shortage as early as May 2021. On May 10, 2021, California projected a staggering \$75.7 billion surplus despite a year of pandemic closures — an amount that surpasses most states' annual spending and prompted Gov. Gavin Newsom to propose sending cash back to residents as he faces a recall election. On May 19, 2021, Michigan announced that it could enjoy 4.7 billion in budget surplus (Yamamura, 2021).

One concrete sign for a potential inflation spike has to do with the change in social security benefit payments. In 2020, Social Security benefits increased by just 1.3 percent, raising the average benefit by only about \$20. However, Social Security recipients can look forward to one of the largest cost-of-living adjustments (about 5.9 percent) in nearly 40 years in 2022 since 1983, when it was 7.4 percent (Social Security, Latest Cost of Living Adjustment). Evidence indicates that the US inflation rate would continue to rise beyond 5.9 percent. On December 10, 2021, for example, the Bureau of Labor Statics reported that the US inflation rate rose to 6.8% in 2021 to its highest point since 1982 (The Guardian, 2021). The cost-of-living adjustment (COLA) is based on the average of the July, August, and September CPI data. Social Security benefits are one of the few types of income in

retirement that are adjusted for inflation. In 2020, 61 million people, one of every five Americans, received benefits from programs administered by the Social Security Administration (SSA) (SSA, 2020 and Goforth, 2021). However, soaring inflation still can knock a hole in the household finances of retired and disabled Social Security recipients.

Conclusion

The government's generous coronavirus relief package and more money in some other forms such as infrastructure not directly related to the Covid 19 have economists worried it will drive up both prices and federal budget deficits, thereby wreaking havoc on the economy. If inflation were to rise quickly, the Federal Reserve System could act to contain it by raising interest rates from their current low levels, which would make borrowing more expensive and slow economic activity. However, raising interest rates to control inflation has sometimes led to economic contractions and even recessions. In addition, if interest rates were to increase in conjunction with higher inflation, there would be significant implications for our national debt (Peterson, 2021). More broadly, inflation spike caused by the easy fiscal policy and the tight monetary policy to contain it are likely to disrupt the major goals of the macroeconomic policy--full employment, price stability, the sustainable rate of economic growth and the sustainable balance of payments in equilibrium (Goforth, 2021). In summary, we can say that there is no guarantee that the US will not face the terrible economic dilemma again, just like the one of the early 1980s if the government ignores its long-term problems by focusing on only short-term gains.

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FRACTAL MARKET HYPOTHESIS VS. EFFICIENT MARKET HYPOTHESIS: APPLYING THE R/S ANALYSIS ON THE ROMANIAN CAPITAL MARKET

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Ana-Maria METESCU
Fractal Sciences S.R.L.
Bucharest, Romania
ana.fractal.metescu@gmail.com

Abstract: *Fractal Market Hypothesis was developed as an alternative to Efficient Market Hypothesis, as it encompassed liquidity as a determinant factor for price. R/S Analysis is a robust tool for testing whether a historical price series, for certain time interval, follows a brownian motion or there is some memory effect over it. Determining the Hurst exponent for company ALRO S.A., for a the period of time since listing, until 16/07/2021 was the aim of this paper. Values obtained for Hurst exponent applied on the time series of ALRO S.A offer precise information about the presence of the memory effect inside the stock market. As a conclusion, as Alro S.A. is one of the most representative stocks traded at Bucharest Stock Exchange, Romanian capital market has evolved from a very low stability market to a more stable investment environment.*

Keywords: *efficient market hypothesis, fractal market hypothesis, capital market, R/S analysis, Hurst Exponent, capital market*

Introduction

The purpose of the paper was to present theoretical implications of the FMH and to apply R/S analysis on the historical time series of company Alro S.A. The results of the analysis indicate translation from an antipersistent trend, going to a random walk phase and reaching a persistent trend phase. The Hurst Exponent indicate the presence of a long-term memory effect, in the case H is different from 0.5. As the value of this metric is 0.5, it detects the independence of the studied series, but offers no indications about distribution. Classical statistical and econometric theory, intended to provide functional forecasting models in capital markets, is the mathematical foundation for a number of theories - efficient market theory, Harry Markowitz's optimized portfolio theory, the CAPM model developed by Sharpe, and the modern theory of portfolio - Modern Portfolio Theory (MPT).

There are suggestions among capital market theorists that efficient market hypothesis has only one function, which is to justify the use of probabilistic calculus in the analysis of capital markets. Specifically, the fame of this theory is demonstrated by thousands of studies and tests performed on it, being one of the most controversial theories, due to the ambiguity and general distrust under which the results are - confirmation of the efficient market hypothesis, with a certain statistical probability, it does not necessarily mean the efficiency of the capital market, but the fact that it tends to become efficient (and subsequently may result in the use of predictability models may be useless), and the

rejection of the efficient market hypothesis does not necessarily mean that the market is inefficient.

From mathematical perspective, the very first formulation for EMH was the random walk version, being also the most restrictive version. Market efficiency does not necessarily imply a random walk, but a random walk implies for sure market efficiency. Alternatively, the independence assumption between market moves conducted to a more general martingale or submartingale models for market efficient hypothesis. One of the theories that fundamentally marked the modeling of financial phenomena is the efficient market hypothesis (Fama, 1970), according to which in an efficient market prices always correctly and completely reflect the available information. A particular form of efficiency, weak form efficiency, has the effect that trading prices follow a random walk pattern and returns are unpredictable. Guerrien and Gun (2011) take an extremely critical position against the efficient market hypothesis, showing that the idea of an efficient market cannot be valid from the point of view of Pareto optimality, as the conditions to be met in this regard are too restrictive.

Another widely spread idea among specialists is that in an efficient market it would not be possible to form speculative bubbles, or the formation of a speculative bubble market regime (Abreu and Brunnermeier, 2003), or they are quite common in recent history of capital markets. Malkiel (2011) refines the discussion on the relationship between the efficient market hypothesis and the financial crisis, dismantling much of the criticism of this hypothesis. Malkiel highlights the two main implications of the hypothesis: the fact that public information is reflected in price without delay, and the lack of opportunities for arbitrage. The author points out that in an efficient market prices are not always "correct" and not all investors necessarily behave rationally. Moreover, the fact that the trading price is "fair" refers to the fact that, according to the efficient market assumption, it is impossible to assess whether the price is undervalued or overvalued at any given time, which is an area dominated by uncertainty.

Fractal Market Hypothesis vs. Efficient Market Hypothesis

Fractal market hypothesis (FMH) was developed by Peters (1989, 1992) as a replica of efficient market hypothesis. According to FMH, the emphasis is no longer on market efficiency, but on its stability. The market is considered stable when it is "liquid", in the sense of an unbalanced trading volume. Also, unbalanced trading volume represents a simplifying metaphor for an effective distribution among demand and supply, in other words, among „bulls” and „bears” in the market. If there is enough dis-equilibrium (disharmony) between those two forces applying on the price, the stability of the market fades and markets become turbulent. If a market is liquid, then the market price is close to the "fair" one, the volume of transactions being large enough so that the market can find the full range of possible expectations of investors regarding the trading price, and it has is formed as a result of the normal balance between supply and demand.

Contrary to the theory of efficient markets, fractal market theory considers that information does not have a uniform impact on prices, information is assimilated differently, depending on different investment horizons. Different time horizons evaluate information differently. At any given time, the prices may not reflect all the information available, but only the information that is important for the investment horizon. As a matter

of fact, it is not information, but investment horizons of different types of investors are the crucial factor that determine liquidity, in other words, stability in the markets. Due to different approaches, a daily trader quantifies different information he receives regarding his daily trading strategy from an investment fund. For him, the impact of a financial news may lead to a „sell” order regarding a stock in his portfolio, at the end of the day, as for a trade fund manager may see as an opportunity to „buy” that same stock, generating an opposite position, and, at the end of the same day, the investment fund successfully „buys” and „closes” open positions of tens of daily traders. There is a hidden, single differentiating aspect that bonds all those together, which is different horizon of time used for taking action. It is time horizon, not information, that generates also stability, with other words, liquidity in the markets.

There is a fundamental difference between the Efficient Market Hypothesis (EMH) and the Fractal Market Hypothesis (FMH) in terms of information embedded in trading prices: in the case of EMH, prices reflect all available information so they become unpredictable in relation to that amount of information, while FMH postulates that prices do not necessarily incorporate all available information, which generates a certain degree of predictability. On the other hand, according to EMH, prices reflect and incorporate instantly all available information (definition of efficient market), so successive price changes are attributable only to random process of generating new information (this is the true meaning of randomness, not information is random, but the process of penetration of new information is random). This means that the new information, and only it, can dictate future price changes, and as the process is random, future changes are random too. This means that predictability is impossible, according to EMH. On the other hand, investors take decisions base on different time horizons, meaning that „significant information” for one investor may be categorised as „insignificant” to other, under different time horizons. This means that as new information appears into markets, some investors will not trade it, generating some degree of predictability.

Limitations of EMH. Liquidity effect

Ball (2009) concludes the most evident limitations of the EMH, amongst: (i) information is an exogenous factor for the price function, (ii) information obtaining is cost-free, (iii) there is no liquidity effect over price. According to those limitations, FMH considers that, as respect to (i), price is an exogenous factor, but more important than price, we have different time horizons based on which different tipologies of investors take decisions. Based on this, the more heterogenous is the pool of investors, the more diversified will be the horizons they trade, the more different they will react or not to the same information, and they will value it quite in opposite manners. The diversity of tipology of investors will assure liquidity in the market. For (ii), obtaining information is free only for public sources. Even in such cases, the cost of processing and interpretation of that information is not free, and highly depends on the degree of sophistication of the investor’s profile. Also, this is available for normal periods. In case of „turbulent” periods, investors do not have the same ability to uniformly process information. Liquidity effect over price is also not considered under EMH (iii), but as liquidity decreases, and drops down, accordingly to an increasing trading volume, instability generates big price movements. Stability of the market is a matter of liquidity. And as expressed before in the

paper, liquidity is available with many investors with different time horizons. For normal periods, liquidity generates market stability in this form. On the contrary, in periods when market loses its structure, all the investors have the same trading horizon. As a result, market becomes unstable, as liquidity fades away. This translates into losing the long-term investors, or their behaviour transformed into short term, meaning the whole market trades on the same information set, which may be technical or crowd phenomenon. For this, the market horizon becomes short term under uncertainty, as effect transforming the long-term information into unreliable or useless. Thus, largest crashes have occurred when liquidity was low and trading volume is very high (trading volume means unbalanced supply and demand). EMH cannot explain price crashes, but when liquidity vanishes, getting the „fair” price does not seem so important as executing the trade at any cost. Thus, price is close to „fair” only correlated with liquidity, otherwise, investors are willing to take any price, whether „fair” or not.

Capital markets: non-linear dynamical complex systems

The classical approach regarding capital markets, based on the normal distribution assumption, is mathematically formulated using linear models. Despite this, the behaviour of participants into markets cannot be reduced using deductive linear models, but only for simplicity and conceptual elegance. The limitations of the econometric and statistical analysis are synthesized by Peters ():

1. Classical econometric analysis refers to the theory of equilibrium, in other words, if there are no external influences (external exogenous factors), the systems are in equilibrium, and all the forces of an economic system tend to balance. In the case the system is perturbed by external factors, the system tends to rebalance, this being its basic condition, the equilibrium state. However, examples in nature show that the system is far from equilibrium, and this is its natural state. However, free-market economies are evolving structures. Attempts to control them (state intervention) in order to make them more stable have failed due to the vital importance of far-from-equilibrium conditions, so necessary for their development. More, free-capital markets are living structures, any intervention in their processes for stability may tend either to their collapse (death), or to un-natural functioning patterns. Attempt to model behavior of these systems using equilibrium theories generates disastrous results.
2. Classical mathematical theories refer to the time factor, in the sense that it approaches the concept that markets and the economy have no memory, or that their memory is very short. At best, econometrics uses short-term memory, but its effects disappear quickly, and the concept that a present event affects the future is completely foreign to current econometric science. EMH suggests that future price changes are generated by future information only, and not to present price value. As a consequence, past does not influence present, present does not influence future. But is it really the way markets function?
3. Also, the qualitative aspect involved in the human psychological decision-making process is completely neglected. Psychologically, people, as part of economic and stock market mechanisms, are influenced by what has happened in the past, and expectations about the future are influenced by recent experiences. This process is

called, in behavioral finance, the feedback effect, in other words, the past influences the present and the present influences the future. "The rational investor" theory supposes that this rational person is not affected by past events, except maybe very recent ones. However, real feedback systems involve long-term trends and correlations, due to the fact that the memory of events from the more distant past can still affect the decisions made in the present. All these aspects lead to a so-called "disorder" or state of anomy of the markets, in which the classic, clear, simple, optimal solutions cannot be applied. Instead, several possible solutions are available.

These limitations generate profound bias in understanding markets as phenomenon. Attempt to assimilate markets as complex non-linear dynamical systems is far more close to their real identity. From this perspective, basic characteristics were derived:

- a) feedback systems - past influences the present, and the present influences the future, in other words, $P(t + 1)$ is a product of $P(t)$.
- b) existence of critical levels that allows more equilibrium points and stability bands.
- c) self-similarity, feature characteristic for non-linear feedback processes. The complexity of such a system arises when the system is far from equilibrium.
- d) the sensitive dependence on the initial conditions, in other words, $P(t + n)$ is dependent, but still very different from $P(t)$.

FMH allows understanding the behavior of market participants through the lens of complex dynamical non-linear processes. Benoit Mandelbrot considered time series of historical prices as deduced from "fractional brownian motions", and labeled them as "fractal series". Basic characteristic is correlation between different events, and between time intervals. For styling those time series, the whole history of the price must be accounted. Also, according to FMH, each observation "carries" a memory of all the events that precede it. This is not a short-term "Markovian" memory, but a different, long-term one that should be "eternal". The importance of recent events upon actual price is higher than those of more distant ones, of a longer period of time ago, but there is still residual influence. On a larger scale, a system that displays Hurst statistics is the result of a long series of interconnected events. Basically, what is happening today influences the future, and what happened some time ago influences what is happening today.

From this perspective, FMH studies and applies along time series with large period. Referring to capital market, the entire historical price time series must be applied to. This implies both time factor as maximal, despite EMH, and phycological behavioral impact of very distant events still discounting into actual price, in trading strategies.

Mathematical tool for testing FMH – R/S Analysis

Simplified mathematical tool used for testing FMH was developed by Hurst, and taken over by numerous empirical studies, for enlarging its sphere of application into economics and capital markets, is described below:

For a given time series t , with „ u ” observations:

$$X_{t,N} = \sum_{u=1}^t (e_u - M_N) \quad (1)$$

where:

$X_{t,N}$ = cumulated deviation over N periods;
 e_u = rate of return for period „u“;
 M_N = mean value of e_u over the N periods;
 Range is equivalent to the difference between maximum and minimum levels attained for above equation:

$$R = \text{Max}(X_{t,N}) - \text{Min}(X_{t,N}), \quad (2)$$

where:

R = range of X;
 Max(X) = Maximum value for X;
 Min(X) = Minimum value for X.

Furthermore, this interval should be divided to the standard deviation of the original observations. This range rescaled is supposed to increase with time. The final relationship was formulated by Hurst:

$$R/S = (a \cdot N)^H \quad (3)$$

where:

R/S = Rescaled Range
 N = number of observations
 a = constant
 H = Hurst Exponent.

For estimating the Hurst exponent, the above equation must be logarithmed as below:

$$\log(R/S) = H \cdot \log(N) + \log(a). \quad (4)$$

For a certain value of n, this procedure will generate a point on the graph log (R / S) vs log (n). Further, repetition of the method should be done for n + 10, n + 20, each time, generating another point on the graph, and completing up to n + 100. The slope of the graph is an estimate of the Hurst exponent. Identifying the slope of the R / S log / log graph relative to N can give us a clue to identify the Hurst coefficient. However, estimating the Hurst coefficient does not provide any clues about the time series distribution. Rescaled range analysis is still considered a robust tool for determining the memory effect, or the brownian character of a time series. Taking into consideration values that can be obtained for the Hurst exponent, we can identify three categories:

- (1) $H = 0.5$ - pure brownian motion
- (2) $0 \leq H \leq 0.5$ – anti-persistent time series (probability of a different price change is 1-H)
- (3) $0.5 < H < 1$ – persistent time series.

Persistent time series, defined by $0.5 < H < 1$, are fractal because they can be represented by fractional Brownian motions. Most of the economic time series, series of time generated by natural phenomena are persistent time series. As a conclusion, Hurst exponent determines the probability that if the last price change was positive, the next price would be positive, too. The closest to 1, the strongest the probability the next move would be identical to the prior.

Validity of the Hurst Exponent

Despite the fact that Hurst exponent may offer abnormal results, the question to ask is still if this estimation is valid or not. One explanation may consist in insufficient time

series, or R/S analysis doesn't function the way it predicts. Except those cases, a particular value of H different of 0.5 can have only two possible explanations:

1. There is a long term memory component within the existing time series, meaning every observation is correlated in a manner with all the previous and future observations.
2. Analysis itself is biased, and, as a consequence, a biased value for Hurst doesn't imply a long-term memory effect.

Hurst exponent is a good indicator over the memory effect over price during time. R/S analysis is a robust statistical measure of independent processes. A value of $H=0.5$ does not imply a random Gaussian process. It only assumes there is no memory effect, with other words, any independent system, either Gaussian or not, may generate a value for H equal to 0.5.

R/S Analysis applied on the Romanian capital market. Case Study: Company Alro S.A.

Testing FMH on the Romanian Capital market was conducted by applying the R/S analysis on the historical price time series of company ALRO S.A. In order to test the fractalic character of the time series, all the price observations, since first day of listing at BVB, were taken into consideration. The successive equations above mentioned were implemented inside an informatic script, for the rapid implementation of the algorithm.

Nevertheless, one necessary condition for the implementation of the R/S analysis was a predetermination of the parameter n. After this input value established, the algorithm applies for n+10, n+20, ..., m+100. Metescu (2015), in postdoctoral paper „Modelling stock market processes using FMH” observed the fact that the value of the Hurst exponent seemed to depend upon the value of the parameter „n”, and also upon the value of the step parameter, from 10, 20, ..., 100 steps going further with the algorithm. There were performed multiple tests using two types of random walk, Gaussian and uniform, in the range (-1,1), using various combinations of values for n and for values attributed to step. Final results between the Hurst exponent, the total number of observations, the initial number of observations and the chosen step, illustrated for both „random walks”, are illustrated in the tables below, Table A and Table B.

Table A: Estimations for the Hurst Exponent for a Gaussian random walk and different combinations for parameters „n” and „step”

	1	2	3	4	5	10	15	20
200	0.6014	0.6018	0.6022	0.6026	0.6031	0.6052	0.6073	0.6095
400	0.6053	0.6058	0.6053	0.6068	0.6074	0.6099	0.6026	0.6150
600	0.6691	0.6696	0.6671	0.6705	0.6710	0.6734	0.6682	0.6781
800	0.9270	0.9271	0.9272	0.9272	0.9273	0.9277	0.9281	0.9284
1000	1.2584	1.2588	1.2566	1.2596	1.2600	1.2620	1.2379	1.2658
1200	1.6969	1.6974	1.6909	1.6984	1.6988	1.7011	1.6869	1.7048
1400	2.6047	2.6033	2.6018	2.6005	2.5989	2.5918	2.5851	2.5777
1600	4.6313	4.6249	4.6213	4.6122	4.6057	4.5746	4.5706	4.5146

1800	3.9078	3.9087	3.9226	3.9102	3.9109	3.9153	3.9516	3.9238
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Table B: Estimations for the Hurst Exponent for an uniform random walk and different combinations for parameters „n” and „step”

	1	2	3	4	5	10	15	20
200	0.8273	0.8276	0.8279	0.8282	0.8285	0.8301	0.8318	0.8331
400	0.7221	0.7226	0.7229	0.7238	0.7243	0.7271	0.7266	0.7318
600	0.5215	0.5222	0.5214	0.5236	0.5243	0.5277	0.5275	0.5345
800	0.4594	0.4600	0.4607	0.4614	0.4620	0.4653	0.4684	0.4714
1000	0.4749	0.4759	0.4750	0.4781	0.4791	0.4843	0.4695	0.4943
1200	0.5713	0.5720	0.5660	0.5733	0.5739	0.5772	0.5637	0.5838
1400	1.5324	1.5299	1.5273	1.5248	1.5223	1.5100	1.4983	1.4855
1600	2.9579	2.9547	2.9525	2.9486	2.9455	2.9302	2.9226	2.9025
1800	2.7890	2.7891	2.7950	2.7893	2.7893	2.7896	2.8057	2.7909

As results are displayed, the value for parameter „n” = 600, in both cases, represent the best approximation, close to 0.5 for the Hurst exponent, in the case parameter „step” = 10. From these estimations, we would extract the value of the parameter „n” = 600, and use this predetermined value for our algorithm for determining the values of the Hurst Exponent for the company ALRO S.A. The results obtained for the Hurst Exponent are displayed in the following graphical illustrations (Graph 1, 2, 3), print-screens from FRACTAL – RISK platform, based on the script that implements the R/S analysis as below, and developed using a graphical user interface:

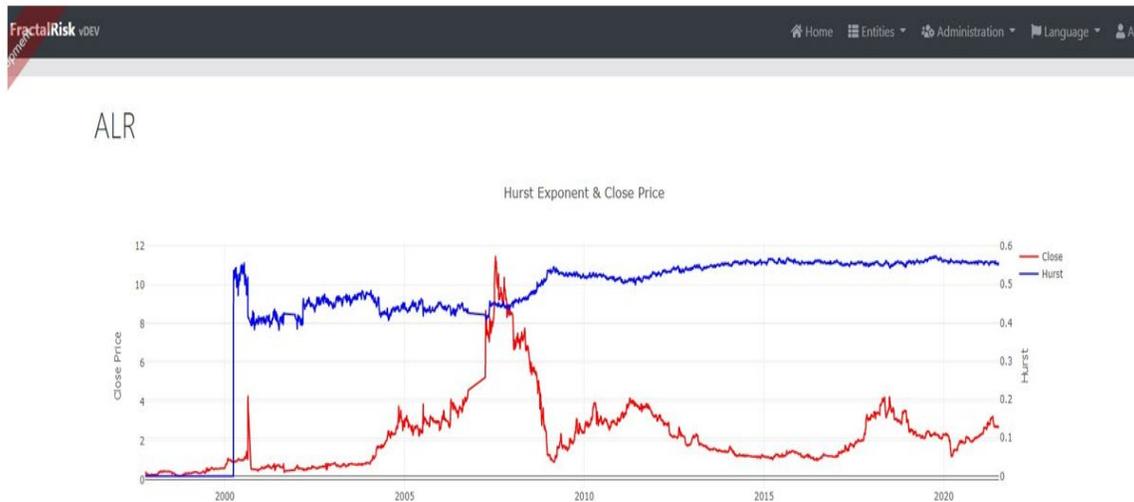


Fig. 1. Print screen from FRACTAL-RISK: Estimation of the Hurst exponent for the closing daily prices of ALRO S.A., for the period since first trading day, 16/10/1997 until 16/07/2021 (full length of time)

As noticed in the results displayed in the figure above, values for the Hurst exponent can be divided into two categories, corresponding to two time intervals: first, between 2000

and 2009, where $H < 0.5$ except some exceptions, and values between 2009 and 2020, where $H > 0.5$.

Explanation resides in the fact that for the first group, Hurst determines an anti-persistent trend, meaning tendency to reverse, and the process generating process may be described as a mean-reverting process or ergodic process. Basically, if the last price movement was in one direction, the probability that the next price change to be in the opposite direction is pretty high ($1-H$). Main characteristic is the lack of memory over price movements. The "strength" of the anti-persistent behavior of price depends on how close to zero the Hurst coefficient is. The closer the Hurst exponent is positioned to zero, the more volatile the trend, and the more frequent the changes. Basically, the value doesn't reach the neighborhood of zero, it is stabilised between 0.4 and 0.5. As a result, there is no stability, according to FMH, meaning no liquidity. One good explanation may be the under-development of the Romanian capital market, lack of experience and interest for potential and actual traders.

For resolution purpose, the estimations for the Hurst exponent, along with the closing daily prices are displayed in the figure below, corresponding the time interval 1997 – 2009 (zoom into data displayed):

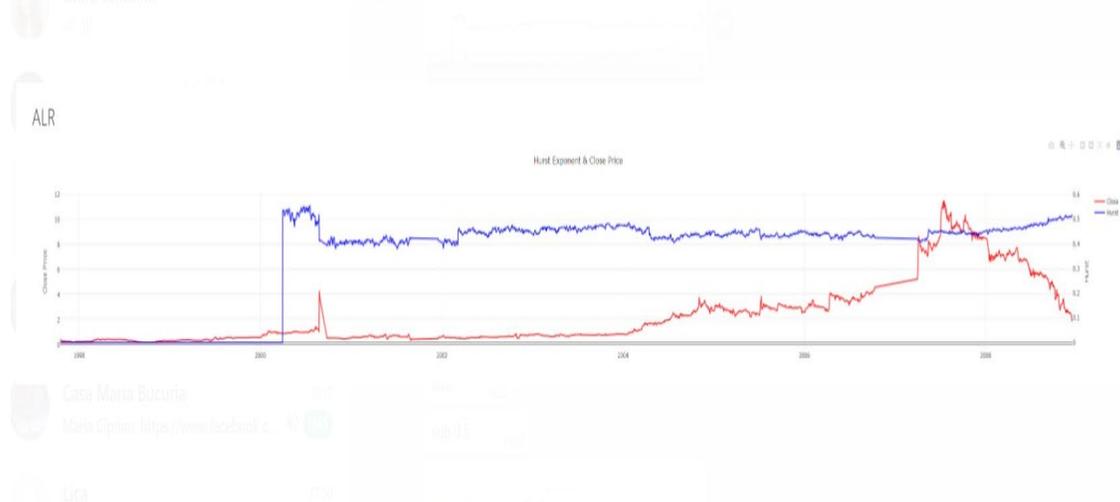


Fig. 2. Print screen from FRACTAL-RISK: Estimation of the Hurst exponent for the closing daily prices of ALRO S.A., for the period since first trading day, 16/10/1997 until 2009 (zoom function)

The second group of values for the Hurst exponent display values above 0.5, which would be equal to the random process. Hurst exponent determines a persistent trend, meaning that there may be some memory effect presented. Every price change is determined by a series of past movements, and every event is shaped by a serial interconnection of previous events. Overall, the memory effect is not very pronounced, as values do not exceed the 0.6 limit. The importance of distant past event is very small, as for recent events. Probability that the trend modifies is smaller ($1-H$), meaning the „strength” of the persistent behavior is above 0.5, but still below 0.6. As for the memory effect, there is some long-term memory effect presented in the market. This may be an indicator for increasing market stability, which translates into increasing liquidity, and a balanced trading volume. Causes for this phenomenon are multiple, among: the development of the Romanian capital market, increasing presence of more educated

investors into the market, inflow of money by international funds investing in Romanian stocks. As postulated by FMH, the Hurst exponent simply quantifies the memory effect, in a market with increasing stability. As FMH suggests, the stability of the market indicates the presence of a heterogenous spectrum of investors, from daily traders and speculators to investment funds, generating a stable structure of the Romanian capital market. Also, the investment horizons of the participants differ significantly, generating liquidity and financial health for the capital market. As for the closing prices, the values for the Hurst exponent suggest that they should be almost similar with their „fair values”, due to the stability generated in the market. As for the smoothness of the Hurst line, increased market maturity generates this flatness. There are no big price changes, nor extreme fluctuations, generated by an unbalanced trading volume, combined with small liquidity.

Again, the estimations for the Hurst exponent, along with the closing daily prices are displayed in the graph below, corresponding the time interval 2009 – 2021 (zoom into data displayed):

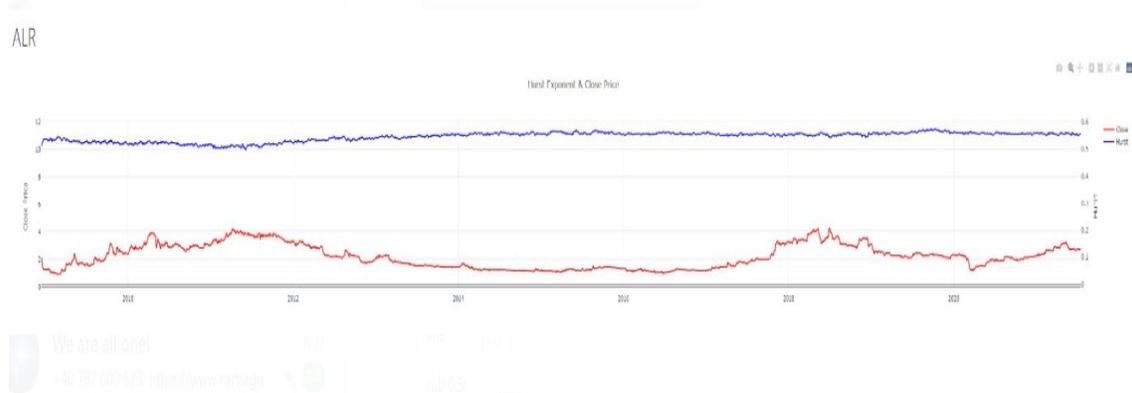


Fig. 3. Print screen from FRACTAL-RISK: Estimation of the Hurst exponent for the closing daily prices of ALRO S.A., for the period since 2009 – 2021 (zoom function)

The particular case for $H=0.5$, when the first range of values for H (<0.5) reaches the value of $H=0.5$ is specific for a random process, meaning an independent system. In this case, as compared to the price movement, the Hurst exponent indicates precisely an abrupt decline in price, meaning a disproportion between liquidity and trading volume, where trades are executed at any price. Basically, short and long term investors trade under same horizons, due to uncertainty, which is very present in the market. Also, there is no memory effect, prices reflect only a deep fear emotion of the participants in the transactions.

Conclusions

Romanian capital market evolved as from an unsecured investment environment to a more stable position, as investment opportunity at international scale. R/S Analysis is a robust indicator, for determining even transition from uncertainty to stability. The evolution of historical daily closing prices of ALRO S.A., starting as anti-persistent process, passing through random walk phase, and reaching to persistent processes is the evolution from a

very low stability market to a more stable one. The Hurst exponent precisely offers information about maturity, stability and memory effect inside markets.

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HOW DOES FINANCIAL MARKET STRESS RESPOND TO SHOCKS IN GLOBAL ECONOMIC ACTIVITY AND EXCHANGE RATE STABILITY? A STRUCTURAL VAR APPROACH

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Baneng NAAPE

Department of Economics, University of the Witwatersrand
banengnaape@gmail.com

Bekithemba QEQE

Department of Economics, University of Fort Hare
bekithembaq@gmail.com

Abstract: *The study examined the response financial market stress to innovations in global economic activity and the exchange rate in emerging economies and advanced economies during the period 2006Q1 and 2020Q4. This was achieved by means of time series econometric analysis. The impulse response function estimated through structural factorisation indicated that financial market stress responds positively towards its own innovations and innovations in global economic activity. In contrast, financial market stress responds negatively to a one standard deviation in the exchange rate at least in the long run albeit the response is neutral in the short run. The findings from the variance decomposition showed that in advanced market economies, a larger fraction of the discrepancies in financial market stress are explained by its own innovations followed by innovations in global economic activity whereas in emerging market economies, a larger proportion of the discrepancies in financial market stress are explained by its own innovations followed by innovations in the broad exchange rate. Given the findings, the study recommends strong coordination between monetary policy and fiscal policy to ensure that overall economic activity is optimized and maintained in the long run.*

Keywords: *financial stress; exchange rate stability; global economic activity; emerging markets*

Introduction

The financial sector is an important part of the economy and impacts on the lives of all citizens of a country. Individuals make use of financial services to conduct economic transactions, save and preserve wealth for future aspirations, retirement needs as well as unforeseen events. Financial services also contribute to economic growth, job creation, building of key infrastructure and sustainable development. Despite this, the financial sector also introduces risks to the economic system and hence it is a widely held view that financial markets should be well regulated and stable. Many definitions of financial stability exist in literature, however in this study we follow Gadanez and Jayaram (2009) who define financial stability as “the absence of excessive volatility, stress or crises”. Financial stability issues began to receive special focus after the global financial crisis of 2007-2008 due to their macroeconomic implications and cross boarder effects amongst other things. Global imbalances in saving and consumption between different parts of the world during the crises were characterised by large savings in emerging economies such as China flowing into industrialised economies such as the United States(US), United Kingdom(UK) and the Eurozone. The surplus of funds fuelled an unsustainable level of

debt-financed consumption in some advanced economies, coupled with rapid rises in asset prices. In emerging countries, financial stability problems are often not only connected to internal shocks, but also external shocks enhanced by the globalization impact (Golovnin & Oganessian, 2018). Exchange rate fluctuations influence price dynamics and determine the debt burden of borrowers as large amounts of debt in these emerging countries is denominated in foreign currency and foreign exchange assets constitute a large portion of domestic savings (Golovnin & Oganessian, 2018). The recent crisis has demonstrated that economies are interconnected, hence, vulnerabilities in the financial system of one country can easily spread across national borders. Promoting global economic stability was identified by the International Monetary Fund (IMF) as an essential remedy or way to prevent financial crises, large swings in economic activity, high inflation as well as a great volatility in financial markets. Global economic instability can increase uncertainty, discourage investment, impede economic growth, and hurt living standards (IMF, 2021).

Recognising the need for coordinated efforts to secure global financial and economic stability, many countries have committed to important obligations of preventing a similar crisis in the future. Policy makers and academics around the globe have become increasingly concerned with what causes financial instability as well as what could be done to prevent it. Regulatory reforms adopted by international policy makers over the past decade can be categorised into micro and macro prudential regulation. International reform of micro prudential regulation has focused on four key areas: capital, leverage, liquidity, and resolution, while macroprudential regulation focused on three areas namely: macroprudential capital buffers; stress-testing; and shadow banks (Haldane, Aikman, Kapadia, & Hinterschweiger, 2017). Against this backdrop, the study considers the nexus between global economic activity, exchange rates stability and financial stability in emerging markets and advanced economies. The study extends on existing literature which uses the financial stress index (FSI) to understand the channels of financial transmission. Furthermore, the nexus between global economic activity, exchange rate stability and financial stability remains relatively underexplored in financial literature. Some studies in literature have focused more on the link between financial stability and other variables such as competition in the banking sector, financial sector regulation and supervision as well as monetary stability to mention a few (e.g., Nanna, 2002; Gale, 2004; Hesse and Cihak, 2007) rather than specifically on the link between the three variables. Another strand of literature focused on the link between financial stress and economic activity of individual countries such as United states (US), France, Germany (e.g., Royes, 2011; Aboura & van Roye, 2017; Ferrer, Jammazi, Bolos, & Benitez, 2018). To the best of our best knowledge, very little attention has been paid specifically to the effect of global economic activity and exchange rate stability on financial stability. This study contributes towards closing this gap in literature.

LITERATURE REVIEW

Theoretical literature

In order to prevent the occurrence of financial instability, policy makers need to understand the underlying causes. As documented in Mishkin (1997), there are two major institutional differences between the financial markets of developed economies and emerging market economies which leads to different propagation mechanisms for financial instability between the two different sets of countries. Firstly, in developed countries where

inflation expectations are often low, debt contracts are for a long duration. Advanced economies often retain strong currencies and thus most debt contracts are denominated in domestic currency. In contrast, most emerging market economies have domestic currencies that experience substantial fluctuation in values and are thus riskier. Many of the debt contracts in emerging market economies are denominated in foreign currencies. Notwithstanding the above, the initial impetus for financial instability maybe the same for both developed and emerging market economies. Mishkin (1997) identified four factors that help initiate financial instability: (1) increase in interest rates, (2) increase in uncertainty, (3) asset market effects on balance sheet, (4) problems in the banking sector. When market interest rates increase to substantially high levels, there is a high probability that lenders may lend to bad credit risk (adverse selection), since it's only the borrowers with higher risk investments projects that are likely willing to borrow at higher interest rate. The increase in the chances of adverse selection may incentivize lenders to reduce the number of loans they provide, possibly leading to a decline in lending which will in turn have a negative effect on economic activity and investment. Financial markets behave in line with the optimism or pessimism of investors. Uncertainty in these markets can be as a result of recessions, political instability, stock market crash which potentially makes it difficult for a lender to identify good from bad credit risks. The increase in uncertainty may result in information asymmetry and worsen the adverse selection problem.

The strength of the balance sheet of both financial and nonfinancial institutions has an effect on the degree of the asymmetric information problem. The deterioration of these balance sheet worsens adverse selection, moral hazard problem and therefore may promote financial instability. Furthermore, banks have a very important role in financial markets since they are well-suited to engage in information-producing activities that facilitate productive investment for the economy. A decline in the ability of banks to engage in financial intermediation and make loans may lead directly to a decline in investment and economic activity. In addition to the above, emerging market economies face additional potential shock which increases the likelihood of financial instability. Institutions in emerging countries raise funds by issuing debt denominated in foreign currencies.

2.2 Empirical literature

This section discusses the empirical evidence on the effect global economic activity and exchange rate stability on financial stability/financial stress, discussing how exchange rate fluctuations and conditions in the global economy affect key variables in the financial sector. There is a dearth of literature on the nexus between global economic activity, exchange rate stability and financial stability. Existing studies have mostly focused on the relationship between financial stability and other variables such as banking sector competition, financial sector regulation, monetary stability and has been silent with regards to the link between global economic activity, exchange rate and financial stability.

2.2.1 Global economic activity and financial stability

As noted by the Bank for International Settlements (BIS) (2011), weaker macroeconomic conditions reduce the revenues and profits of businesses (including banks) and the incomes of households, which results in households' and businesses' net worth increasing more slowly or in some cases decreasing. In addition, weaker business revenues and household incomes push up borrowers' default probabilities, which in turn weaken the position of banks' balance sheets. The strength of bank balance sheets is important because

it influences their ability to extend credit, while the strength of the borrowers' balance sheets influences default rates, which in turn affects the strength of bank balance sheets (BIS, 2011). Balkrishna et al (2011) suggest that financial stress can be as a result of global factors such as changes in commodity prices, GDP growth and interest rates, as well as country specific factors such as the degree of openness and macroeconomic vulnerabilities. Similarly, Park and Mercado (2013) investigated the determinants of financial instability in emerging market economies. Using the FSI for a panel of 25 emerging countries, it is concluded that both global and domestic factors affect FSI. Higher global interest rates tend to increase domestic financial stress suggesting that the tightening of conditions in international credit markets can have adverse effects on domestic financial conditions in emerging market economy (Park & Mercado, 2013). Higher global GDP growth reduces domestic financial stress, suggesting that as global demand conditions improve financial stress declines. Sound domestic macroeconomic conditions also have mitigating effect on domestic financial stress. Furthermore, results of their study show that current account surplus, fiscal surplus, and higher foreign exchange reserves lower domestic financial stress. Among these domestic indicators, fiscal surplus was found to significantly lower domestic FSI across specifications, implying that fiscal space of the country or its ability to increase domestic spending during episodes of financial market turmoil plays an important role in lowering domestic financial stress (Park & Mercado, 2013).

Another strand of literature has focused on the effects of financial stress on real economic activity (manly output & inflation) of nations. Amongst these is a research paper by van Roye (2011) which looked at the effects of financial stress on economic activity in Germany and the Euro area. The study estimated a small Bayesian vector autoregressive (VAR) model and concludes that an increase in financial stress has an adverse effect on GDP growth. Results of the study revealed that 15% of the variation in GDP is attributable to financial stress in Germany while this number is slightly higher at 30% for the Euro area (Roye, 2011). In another study, Aboura and Roye (2017) examined the nexus between financial stress and economic activity in France. The authors employ 17 financial variables from different market segments and extracted common stress components by means of a dynamic approximate factor model. The model was estimated with a maximum likelihood and expectation-maximisation algorithm allowing for mixed frequencies and an arbitrary pattern of missing data. Using a Markov-Switching Bayesian VAR, the study shows that while high financial stress is strongly linked with low or subdued economic growth and activity, episodes of low financial stress have a negligible effect on economic dynamics (Aboura and Roye ,2017).

Ferrer *et al* (2018) considered the interactions between financial stress and economic activity in the US. As measures of economic activity, the study employed growth rate of industrial production, real GDP growth rate, inflation rate, unemployment rate and 10-year treasury rates. A number of FSI indices were employed including the Kansas City Financial Stress Index (KCFSI) and St. Louis Financial Stress Index (STLFSI) and Cleveland Financial Stress Index (CFSI). Results of the study show an adverse effect of financial stress on economic activity since the onset of the subprime mortgage crisis in 2007. This shows that financial stress is more severe during periods of financial turmoil (Ferrer et al, 2018).

2.2.2 Exchange rate and financial stability

There is still a dearth of empirical studies on the effect of exchange rate stability on financial stability/stress. Some of the earliest literature around this area includes studies by McKinnon (1988) and Eichengreen (1997). The former considered the impact of monetary and exchange rate policies on financial stability while the latter focused on implications of international monetary arrangements for the stability of the banking system. A more recent attempt by Fornaro (2015) looked at the relationship between financial crises and exchange rate policy. The study achieves this by evaluating the performance of different exchange rate policies in sudden stop-prone economies. The key element of the analysis is a precautionary externality arising from frictions in international credit markets which creates a trade-off between price and financial stability. Results of the study show among other things a depreciation in exchange rate during financial crises has a positive impact on welfare because the stimulus provided by a depreciation sustains asset prices (Fornaro, 2015).

On another study, Stoica and Ihnatov (2016) examined the link between exchange rate regimes and financial stability using annual data from a sample of 135 countries grouped by their level of economic development. Results of the study support the view that the flexibility of exchange rate regimes should be reduced in order to sustain financial stability. Golovnin and Oganessian (2018) studied the nexus between financial stability indicators and exchange rate in Russia. As financial stability indicators, study made use of non-performing loans for banking sector and stock market index dynamics for the stock market. Results of the study show that non-performing assets negatively depend on exchange rate while stock market index dynamics is determined by money supply, interest rates and exchange rates fluctuations.

Methodology

The study made use of quarterly time series data spanning from 2006Q1 to 2020Q4. The data was collected from reliable databases including the Federal Reserve Bank of Dallas, St Louis Federal Reserve and Office of Financial Research. By following recent studies including Gersls and Hermanek (2007), Park and Mercado (2013), Stoica and Ihnatov (2016), Ferrer et al (2018), our empirical model can be expressed as:

$$y_t = \beta_0 + \beta_1 EXR_t + \beta_2 GEAI_t + \varepsilon_t$$

Where:

y_t is the dependant variable represented by the financial stress index. This includes the emerging markets financial stress index, advanced markets (Japan and European Union) financial stress index and the United States financial stress index.

EXR is the nominal broad exchange rate

$GEAI$ is the global economic activity index developed by Kilian (2009)

ε_t is the error correction term

The study employed a multiple regression analysis. Several pre-estimation tests were conducted prior to the regression analysis. This included descriptive analysis and unit root analysis. The variables were examined for unit root by means of the Augmented Dickey Fuller unit root test (Dickey & Fuller, 1979). The next step of analysis involved estimating the structural Vector autoregression model. The choice of technique was to account for structural breaks in the financial system. Three models were estimated, for

emerging market economies, advanced economies (Japan and European Union) and for the United States. This is primarily because the United States is not included in the financial stress index for advanced economies. The impulse response function and variance decomposition were later performed through structural factorisation to evaluate the response of the financial market stress to innovations in global economic activity and exchange rate stability. Given that econometric analysis is prone to errors, the estimated model was assessed for autocorrelation and heteroscedasticity.

Findings and discussions

This section documents findings from the econometric tests performed. This includes pre-estimation tests, cointegration, residual diagnostics and impulse response. The findings are discussed in line with recent empirical studies.

Descriptive Analysis

Our pre-estimation analysis included performing descriptive analysis. This was done to examine the individual characteristics of the variables of interest. The results are provided in table 1 below.

Table 1: descriptive statistics

	AE FSI	EM FSI	US FSI	EXR AE	EXR EM	EXR US	GEAI
Mean	0.05	-0.01	0.01	101.60	92.92	106.69	-0.31
Maximum	11.08	2.14	9.84	119.32	105.64	122.70	185.31
Minimum	-2.30	-0.76	-1.63	85.59	82.94	93.64	-146.22
Std. Dev.	2.39	0.45	2.01	11.08	6.06	8.22	75.06
Skewness	2.39	1.97	2.73	0.24	-0.12	0.09	0.74
Kurtosis	10.19	10.95	11.98	1.46	1.79	1.61	2.95
Sum	3.11	-0.10	0.04	6096.08	5575.25	6401.87	-18.49
AE FSI – advanced economies financial stress index EM FSI – emerging economies financial stress index US FSI – United States Financial Stress Index EXR AE – advanced economies nominal broad exchange rate EXR EM – emerging economies nominal broad exchange rate EXR US – United States nominal broad exchange rate GEAI – Global Economic Activity Index							

Source: author's computations

The financial stability index for advanced economies averaged 0.05 between 2006/Q1 and 2020/Q4 while the corresponding standard deviation amounted to 2.39 during the same period. Similarly, the financial stability index for the United States had a mean value of 0.01 and standard deviation of 2.01 between 2006Q1 and 2020Q4. In contrast, the financial stability index for emerging market economies averaged -0.01 between 2006/Q1 and 2020/Q4 while the corresponding standard deviation equated to 0.45. The lower mean values and standard deviations indicate that the data points are less spread out. In respect of the exchange rate, we find that the mean and standard deviation in advanced economies, emerging markets and the United States have higher values, implying that the data points are more spread out.

4.2 Stationarity Analysis

The unit root analysis was conducted by means of the Augmented Dickey Fuller test and the results are given in table 2. The purpose of the unit root test is to evaluate the variables for unit root and determine the order of integration.

Table 2: stationarity test (ADF)

	Intercept	Trend & Intercept	Order
FSI AE	-2.41	-2.82	
D (FSI AE)	-3.60*	-3.49**	(1)
FSI EM	-3.61*	-3.54**	(0)
FSI US	-2.37	-2.79	
D (FSI US)	-4.08*	-4.00*	(1)
EXR AE	-1.29	-2.71	
D (EXR AE)	-5.21*	-5.15*	(1)
EXR EM	-1.54	-1.91	
D (EXR EM)	-5.93*	-6.03*	(1)
EXR US	-1.63	-2.66	
D (EXR US)	-5.19*	-5.18*	(1)
GEAI	-2.27	-3.02	
D (GEAI)	-7.97*	-7.90*	(1)

Source: author's computations

The variables were examined for unit root at intercept and trend and intercept. From the analysis, only the emerging markets financial stress index was found to be stationary at level. The rest of the variables, including the global economic activity index and nominal broad exchange rate in emerging markets, advanced markets and the United States were found to be stationary after first differencing.

4.3 Impulse Response

The impulse response function was estimated through structural factorisation to account for structural shocks in the financial system. The primary goal of impulse responses is to determine the response of endogenous variables to a one standard deviation. The results for advanced economies, emerging economies and the United States are illustrated in Figures 1-3, respectively.

Figure 1: Impulse Responses (Advanced Economies)

Accumulated Response to Structural VAR Innovations ± 2 S.E.

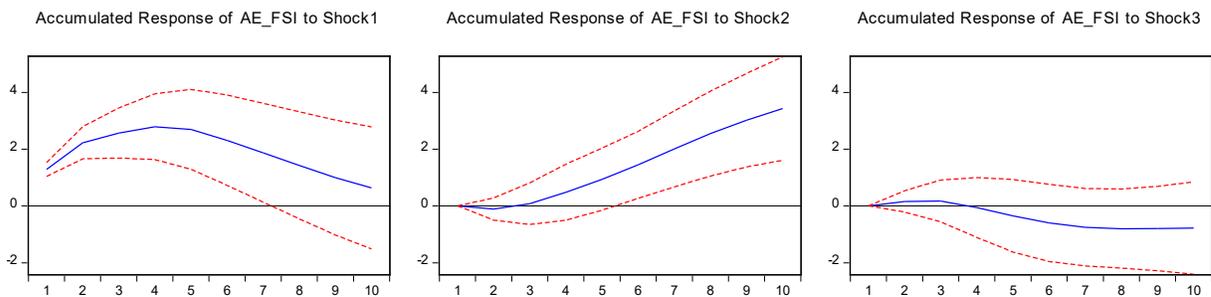


Figure 2: Impulse Responses (Emerging Economies)

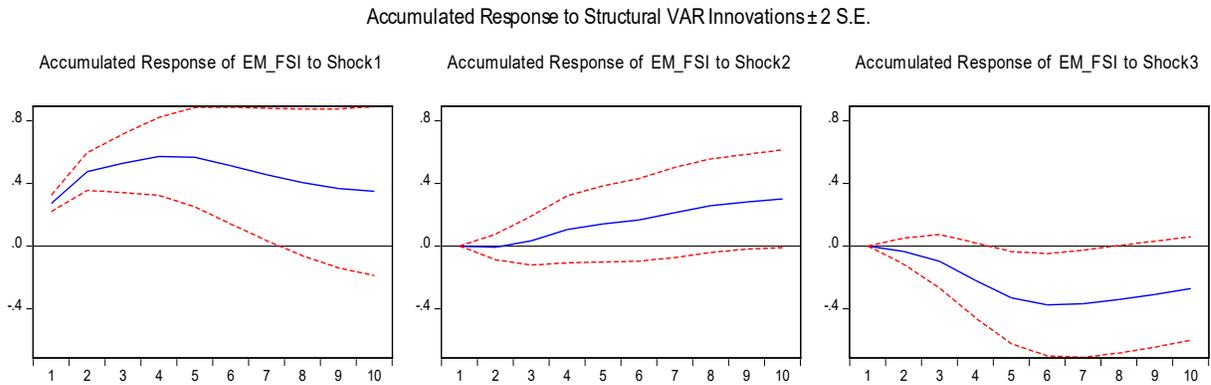
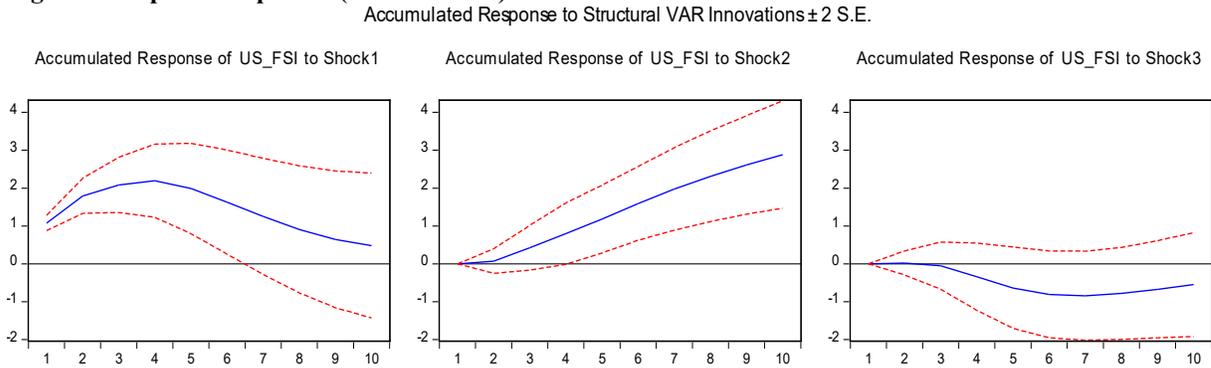


Figure 3: Impulse Responses (United States)



Source: author's computations

The general finding is that financial market stress responds positively to shocks in global economic activity and negatively to shocks in exchange rate stability. This implies that enhancements in global economic activity result in a more stable financial market whereas a deterioration in global economic activity would result in a more volatile financial market. In contrast, we find that financial market stress responds negatively to shocks in the broad exchange rate. A positive shock in the exchange rate translates into a more stable financial market while a negative shock to the exchange rate translates into an unstable financial market. These findings are in line with Golovnin and Oganessian (2018) who found that exchange rates have a negative influence on financial stability in Russia.

Advanced Economies

In Japan and Europe, financial market stress responds positively to its own innovations in the short run and long run although the magnitude of response deteriorates overtime. Similarly, the financial market stress responds positively to innovations in global economic activity at an increasing rate between the short run and long run. On the contrary, the response financial market stress to a one standard deviation in the exchange rate was found to be positive in the short run but negative in the long run. Notably, the size of response in the financial market stress to shocks in the exchange rate is relatively larger than the size of response to shocks in global economic activity.

Emerging Markets

A similar trend was observed in emerging markets. For example, the financial market stress responds positively to its own innovations and innovations in global economic activity although the response is relatively smaller in magnitude compared to

advanced economies. Likewise, the response of financial market stress to a one standard deviation in exchange rates was found to be negative in the short run and long run.

United States

The United States is no exception. Findings from the impulse response function revealed that the financial market stress responds positively to its own innovations both in the short run and long run. In respect of global economic activity, we find that the response of financial market stress to a one standard deviation in global economic activity is muted in the short run but positive in the long run. On the contrary, the financial market stress responds negatively to shocks in the exchange rate in the long run albeit the response is neutral in the short run.

4.4 Variance Decomposition

In line with impulse responses, the variance decomposition was executed to measure forecast errors of each variable in relation to its own shock. The results are provided in Table 4.

Table 4: Variance Decomposition

P	AE FSI	GEAI	EXR AE	EM FSI	GEAI	EXR EM	US FSI	GEAI	EXR US
1	100.00	0.00	0.00	100.00	0.00	0.00	100.00	0.00	0.00
2	98.52	0.47	1.01	98.98	0.04	0.97	99.69	0.28	0.02
3	97.29	1.74	0.96	94.38	1.40	4.22	92.87	6.88	0.26
4	90.29	7.12	2.59	81.63	4.66	13.71	83.05	12.63	4.32
5	82.28	12.76	4.97	74.87	5.03	20.10	75.31	17.29	7.41
6	75.95	18.03	6.02	74.08	5.25	20.67	70.89	21.52	7.59
7	71.10	23.09	5.80	73.56	6.41	20.03	68.88	24.19	6.92
8	67.94	26.79	5.26	72.86	7.28	19.87	67.55	25.91	6.54
9	66.15	29.01	4.85	72.40	7.49	20.11	66.13	27.29	6.57
10	64.94	30.48	4.58	71.75	7.62	20.64	64.76	28.46	6.78

Source: author's computations

Advanced Economies

The variance decomposition analysis indicates that in the short run (3 years), 97% of the variations in the financial stress index are explained by its own shock. In the medium term however (6 years), only 75% of the variations in the financial stress index are explained by its own shocks while 18% of the variations are explained by shocks in global economic activity and 6% of the variations by shocks in the broad exchange rate. In the long run (10 years), a larger proportion (65%) of the variations in the financial stress index remain explained by its own shocks while 30% of the variations in the financial stress index are explained by shocks in global economic activity and 5% by shocks in the exchange rate. Similar results were likewise obtained by Taylor (2015) who found that shocks in financial market stability are largely explained by shocks in global economic activity than in the exchange rate.

Emerging Markets

In respect of emerging markets, the findings revealed that in the short run (3 years), 94% of the variations in the financial stress index are explained by its own shocks while 1.4% and 4.2% of the variations are explained by shocks in global economic activity and broad exchange rate, respectively. In the long run (10 years), a huge chunk (72%) of the discrepancies in the financial stress index are still explained by its own innovations while

only 7.6% of the discrepancies in the financial stress index are explained by innovations in global economic activity. The share of exchange rate shocks in explaining discrepancies in the financial stress index is relatively higher than the share of global economic activity shocks at least in the long run. Shocks in the exchange rate explain 21% of the variations in financial market stress.

United States

In the United States, 71% of the variations in financial market stress are explained by its own shocks in the medium term (6 years) while 21% and 8% of the discrepancies in financial market stress are explained by shocks in global economic activity and the broad exchange rate, respectively. These findings are in line with Jeremy (2012) who analysed monetary policy as a financial stability regulation in the United States. Over the long term (10 years), a large fraction (65%) of the variations in financial market stress are still explained by its own innovations, followed by innovations in global economic activity (28%) and broad exchange rate (7%).

4.7 Residual Analysis

The last step of analysis involved evaluating the residuals of the estimated model for autocorrelation and heteroskedasticity. The Vector autoregression technique is vulnerable to autocorrelation and thus performing residual diagnostics is necessary under this econometric approach. The findings are presented in Table 5 below.

Table 5: Residual Diagnostic tests

	Advanced Economies		Emerging Markets		US	
	Obs*R-squared	Prob. Chi-Square	Obs*R-squared	Prob. Chi-Square	Obs*R-squared	Prob. Chi-Square
Autocorrelation	33.58	0.60	24.71	0.92	38.68	0.37
Heteroskedasticity	166.85	0.09	153.95	0.27	158.66	0.19

Source: author's computations

The autocorrelation test indicated that the estimated models for the advanced market economies, emerging market economies and United States do not suffer from autocorrelation. This is because the corresponding probability values of the chi-square are greater than 5%. As such, the null hypothesis of autocorrelation is rejected against the alternative hypothesis of no autocorrelation. Equally, the white heteroskedasticity test revealed that the estimated models for advanced market economies, emerging market economies and the United States do not suffer from heteroskedasticity. This is indicated by the corresponding probability values of the chi-square which are above 5% in all models.

Conclusion and recommendations

The study examined the response financial market stress to innovations in global economic activity and the exchange rate in emerging market economies and advanced economies during the period 2006Q1 and 2020Q4. This was achieved by means of time series econometric analysis. This includes unit root analysis, structural Vector autoregression, impulse response function and variance decomposition. The impulse response function estimated through structural factorisation indicated that financial market stress responds positively towards its own innovations and innovations in global economic

activity. In contrast, financial market stress responds negatively to a one standard deviation in the exchange rate at least in the long run albeit the response is neutral in the short run. The findings from the variance decomposition showed that in advanced market economies, a larger fraction of the discrepancies in financial market stress are explained by its own innovations followed by innovations in global economic activity whereas in emerging market economies, a larger proportion of the discrepancies in financial market stress are explained by its own innovations followed by innovations in the broad exchange rate. The estimated residuals were likewise examined for autocorrelation and heteroskedasticity. Given the findings, the study recommends strong coordination between monetary policy and fiscal policy to ensure that overall economic activity is optimized and maintained in the long run. Monetary authorities have a role to play in ensuring price and exchange rate stability while fiscal authorities have the tools to realize minimal budget deficits and optimal debt management.

DECLARATION OF CONFLICT OF INTEREST

There is no conflict of interest between the authors. Also, the authors did not receive any funding towards the research work carried out.

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IMPROVING LOCAL GOVERNMENT PERFORMANCE THROUGH FINANCIAL AUTONOMY AND ACCOUNTABILITY AT NIGERIAN STATE

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Abiodun Richard OBISANYA

Department of Public Administration,
Lagos State University, Ojo
richymytime@yahoo.com

Ibrahim Korede HASSAN

Department of Public Administration,
Lagos State University, Ojo
hassankorede00@gmail.com

Abstract: *Globally, the practice and performance of local government has been said to be a sure but effective strategy for ensuring governance and development at the grassroot. Interestingly this is different to the Nigerian experience, our local government system remained imprisoned by financial miscarriage, mismanagement and its effect has negated one among the reason deter for the establishment of local government which is to bring development closer to the grassroot populace. The objective of the study is to see how improved local government performance can be enhanced through strengthening of their autonomy and financial accountability with Lagos state as a focus. This study is basically theoretical and it's based on institutional and stakeholder theory. The study discovered financial control in local government remains at its lowest ebb, scarcity of resources and lack of political leadership among others. It recommends among others that the state joint local government account should be revisited to deliver local government from the claws of the state government and grant her autonomy, Also local government needs to enshrine transparency in their finances to enhance performance, exploit internal sources of revenue generation and e-payment, e-receipt as measures to promote financial accountability in the system. The study concluded that the contribution of financial accountability will facilitate the smooth provision of public social service at the local government, control corruption and enhance both the financial and political autonomy of the local government.*

Keywords: *Local Government, Autonomy and Financial Accountability.*

Introduction

The need for improving the performance of local governments in a governmental system has, over the years, been one of the most frequently discussed issues in public administration. In most countries of the world, the dominant strategy of governance at the grass root is the local government. Indeed, virtually all forms of government or administration appear to have found the practice and performance of local government as an effective strategy for ensuring development at the local level (Ani, et al 2013). In a federal system of government like Nigeria, local government is usually the third-tier government. In a unitary system, like Britain, it usually exists as the second order government to the national level. However, what the local government have in common,

either in federal or unitary systems of government, is responsibility for the most immediate needs of their citizens without any other body between them and the individual.

For some decades now, the accountability of local government has become more complex and attracted considerable interests from both academic researchers and the general public. Issues such as financial scandals and mismanagement of resources have raised concerns from stakeholders, since government institutions are considered agents of the public with a duty of ensuring the proper functioning of government institutions. Financial accountability is the prime objective for all public sectors due to the need to increase the efficacy, efficiency and transparency of the provision of public services and value for money (Pollitt, 2015). The need for financial accountability all over the world has led to the development of autonomous organisational structures, agencies and the outsourcing of services. Wright (2011) argued that public participation accelerates trust in local governments which induce more accountability from public officials. (Parr & Gates, 2010 in Wright, 2011) contend that the push is a response to demands from citizens for an authentic role in improving service delivery in their communities. Faridi & Nazar (2013) point out that the need for strong management of public resources at local government has been accelerated by the fiscal decentralization which grants fiscal autonomy in both revenues and expenditure responsibilities. The nature of operations in local governments attracts strong mechanism of financial accountability. Hladchenko (2016) in Osuebi et al (2019) argues that government financial accountability and transparency contributes significantly on the performance of political system and quality of service delivery at the local level. The main focus of financial accountability is not only to control public resources but also to stabilize good governance at the local government.

Faced with this problem of lack of autonomy and transparency in the discharge of governance at the grassroot level, the study set out to examine how to improve the performance of local governments in Nigeria through improved financial autonomy and accountability with particular reference to Lagos State.

Statement of problem

The relationship between federal, state and local governments in Nigeria is characterized by the supremacy of the federal over the regional and local governments (Dibie 2014). Aluko (2006) in Agwor & Akanni 2017) argues that the 1999 Nigerian constitution made the local governments more dependent on the state governments by the virtue of section 7 sub section 1 of the same constitution. This provision in the 1999 Nigerian Constitution that was approved by the military administration virtually put the local government at the bottom of the political totem pole. Federalism in Nigeria is characterized by poor and ineffective intergovernmental relations. The nature of the relationship between state and local governments has been described by scholars like Aluko (2006); Olowu & Ayo (1985) as the military chain of command approach to governance. This has seriously affected the level of performance of local government.

There have been views that the experience of public sector failure in Nigeria can largely be trace to the absence of fiscal transparency, accountability and probity in the management of government finances in the three tiers of government; federal, state and local governments. Local government's performance in terms of provision of social amenities and encouraging political participation at the grass root level has not been

encouraging. Instead of discharging their functions as development centers, local governments have acquired notoriety for corruption, fiscal indiscipline and overall irresponsibility. The lack of integrity, transparency and accountability at this level of governance definitely constitutes a heavy toll on the well-being of ordinary Nigerians (Agbo, 2010). The culture of corruption which is rampant at national level constitutes a threatening force to development at grassroots level. It has been a significant factor leading to the general failure of local government as well as an excuse for suspending representative institution (Humes & Ola, 1994 in Amal 2013). Corrupt practices have been deleterious not only because they divert funds from public purposes to private purses but also they undermine the vitality of local government.

Financial accountability in Local Governments administration is one of the consequences of the general policy of decentralization and its main purpose is to improve public service delivery. However, this has been betrayed by challenges surrounding financial accountability which have compromised the objective of improving service delivery (Amal, 2013). Some of these challenges include; weak budget control, weak legal process on fraud, individual selfish interest and alike. Several studies have been carried out on local government autonomy. For instance, Oyelakin (1994) study believes that local government autonomy can only be realized if they enjoy full financial autonomy. Similarly Omoruyi (1992), advocate for the need for autonomy to local government in Nigeria and identified the issues that would enhance such autonomy under a Presidential System of Government like Nigeria. Angwe (2000) advocated for the full financial autonomy of local government to strengthen its functions and bring governance closer to the people. Also, Aliyu, Afolabi & Akinwande (2013) in their study cite several cases of abuse of the Joint Account by different state governments across Nigeria, to substantiate their argument that the Account has been subjected to severe abuses by the state governments to the detriment of the local governments thereby undermining the financial autonomy of the local government as well as their ability to deliver on their statutory responsibilities. Mihret & Yismaw (2012) argue that effective budget controls determine the financial accountability in local governments. Neely (2009) in Mihret & Yismaw (2012) postulates that weak budgetary controls adversely affect financial accountability at the grassroots. From these previous studies reviewed, most scholars have linked local government performance to the autonomy question or financial accountability. Few scholars have linked local government performance in Nigeria to both financial autonomy and accountability. This is the gap that this study tries to fill.

Conceptual Review

Local Government: It is difficult to find a single comprehensive conceptualization of local government that is acceptable to both the developing and developed countries of the world. Local government is a problematic concept. It has been conceived and constituted in different ways, depending on the orientation of the scholar (Fatile & Adejuwon, 2009). Madidick (1963) defines local government as a sub-unit of government controlled by a local council which is authorized by the central government to pass ordinances having a local application, levy taxes or exact labour and which within limits specified by the central government varies centrally decided policies in applying them locally. Awolowo (1952) cited in Adeyeye (2003) referred to local government as “a system of government where

local councils make, accept responsibility for, and implement their own decision subject only to such control as may be exercised by the people through their own regional government”.

Usman (2010) sees the local government as a system of public administration at a local level, charged with the responsibility of bringing the people at the grassroots closer to the government. He, however, regrets that a critical survey of local governments in Nigeria today shows that they live in the shadow of the federal government, that a situation has resulted in the abysmal failure of the system. To Dumadu (2008) in Micheal (2013) local government involves a philosophical commitment to democratic participation in the governing process at the grassroots level. This implies legal and administrative decentralization of authority, power and personnel by a higher level of government to a community with a will of its own and performing specific functions as within the wider national framework. Local government can also be view as a legal personality with sufficient but limited powers of control over its staff, finances, and funds (Michael, 2013). Local government generally is conceived as a form of public administration which, in a majority of contexts, exists as the lowest tier of administration in a governmental system. Specifically, local government is a unit of government below the central, regional or state levels established by law to exercise political authority through a representative council within a defined geographical area (Olisa, et al 1990) in Adeleye (2013).

From the above definitions of local government, the following salient features of local government can be identified. These include:

- Operates at the local or grassroots level.
- Operates within a defined geographical area.
- Has a relative autonomy or independence.
- Has a range of constitutionally delineated functions to perform.
- Has its council composed of elected representatives.

Autonomy: Various scholars have underscored the confusions that underlie the understanding of the term ‘local government autonomy (Adeyemo, 2005; Odunfa 1991 in Adegbite 2010). While autonomy has a concept has been defined as the ability to make an independent decision without being controlled by anyone. Yet, Awotokun (2005) have argued that autonomy is of great essence in any democratic setting. If anything, it forestalls the subjugation of one level of government to another and it enhances a relationship grounded in mutual respect for one another in a multilevel democracy. The conceptual confusion is a product of lack clear policy statement on the issue from all institutions of government in Nigeria (Odunfa, 1991) in Adegbite (2010). Financial autonomy of local government is the “freedom to impose local taxation, generate revenue within its assigned sources, allocate its financial and material resources, determine and authorize its annual budget without external interference. It must be noted that local government autonomy is not absolute; the third tier of government retains functional and fiscal relations with the higher tiers of government, however, the relationship must function within the relevant law.

Financial Accountability: Accountability is the hallmark of modern democratic governance. Stewart (1984) in Omoruyi (1992) defines accountability as a relationship between different parties that is to say, the party that accounts and is held to account and the party that holds the other to account. In this study, we define accountability as the process of reporting on how appropriated funds have been utilized. Adegite (2010) states

that accountability is segmented into: (1) Financial Accountability: The obligation of any one handling resources, public office or any other positions of trust, to report on the intended and actual use of the resources or of the designated office. (2) Administrative *Accountability*: This type of accountability involves a sound system of internal control, which complements and ensures proper checks and balances supplied by constitutional government and an engaged citizenry. These include ethical codes, criminal penalties and administrative reviews. (3) Political Accountability: This type of accountability fundamentally begins with free, fair and transparent elections. Through periodic elections and control structure, elected and appointed officials are held accountable for their actions while holding public office. (4) Social Accountability: This is a demand driven approach that relies on civic engagement and involves ordinary citizens and groups exacting greater accountability for public actions and outcomes (Agwor & Akani, 2017). The concept of financial accountability of local governments in Nigeria, is all about holding and ensuring that stewards with resources which are not theirs give an accurate and up to date accounts of what they have done with the resources, with the resources, with a view to ascertaining whether or not they have individually or collectively conformed with, violated, manipulated, achieved or even thwarted the objectives of the owners of the resources (Omolaye 2015). Financial accountability is a form of accountability for public institutions to use public funds economically, efficiently and effectively, there is no waste and leakage of funds, as well as corruption (Dewia, Azama, & Yusoff, 2019). Brinkerhoff (2001) maintains that financial accountability is concerned with the allocation, utilization, tracking and reporting of financial resources. This is done by using auditing, budgeting and accounting tools. This type of financial accountability is used to ensure that government officials comply with laws, rules and regulations promoting financial management and control.

Theoretical Review

This study has its theoretical base in the institutional theory and stakeholder theory. Institutional theory presuppose that it is possible to predict practices within organizations from perceptions of legitimate behaviour derived from cultural values, industry, tradition, history, popular management, folklore, and the like. The institutional theory is concerned with the development of some systems of organisation which emphasize the significance of social and cultural aspects of organisational environments rather than the task and technical elements given prominence under contingency theory and resource dependency theory (Agu, 2008). The theory, according to Meyer & Rowan (1977) in Zucker (1987) holds that organisations are the way they are for no other reason than that the way they are, is the legitimate way to organise. The key idea behind institutionalization is that much organisational actions reflect a pattern of doing things that evolved overtime and became legitimated within an organisation and an environment (Pfeffer, 1982) in Zucker 1987. The Local Government system is a formal institution that has its laws and bye-laws. Effective application of the theory will improve performance and enhance efficient and effective service delivery in the Local Governments. The stakeholder theory requires management of various institutions to know the various stakeholders of such institutions. The perceptions surrounding stakeholder theory mean that managers of entities (LGAs) should be aware of the various user needs of the LGAs' financial statements to the extent that

shareholders need to make a decision on whether to keep providing finances to government without complaints or cease to support government operations. The stakeholder theory is to the effect that the entity (for this case LGAs) satisfies all the needs of stakeholders and this can be done through provision of quality financial statements and being fiscally compliant (Abor, 2015; Christopher, 2010; Donaldson & Preston, 1995).

The stakeholder theory suggests that all stakeholders should be planned for by the organization especially in terms of consideration for information availability on how the entity is performing. The improvement of financial accountability demands strong institutional arrangement to enable apparent working environment in local government dealings. Thus, all internal stakeholders of local governments have strong contributions to the success of financial accountability.

Local Government and The Autonomy Question in Nigeria

One of the nagging problems of Nigeria's federalism is the persistent failure to grant fiscal autonomy to local government as the third tier of government. Under a true federal structure, the autonomy of local government is adequately guaranteed. The questions of local government effectiveness and joint account have been in the front burner for a long time. Many people and institutions such as ALGON (2012) and Momoh (2013) in Omolaye (2015) are of the view that anything short of granting administrative and fiscal autonomy to the local government will not be acceptable. Under the 1999 constitution of Nigeria, allocations from federation account are channeled to the local government through the state government. This scenario created a dependency situation than independent one between the local and state governments (Tella, Doho & Bapeto, 2014). The introduction and the subsequent implementation of the state joint Local Government account system in Nigeria following the restoration of civil rule in 1999 had largely constituted and generated a lot of controversies in the polity such as the allegation of indiscriminate deductions from the statutory allocation of the Local Government by the State Government and its concomitant effect on Local Councils productivity (Ojugbeli & James, 2014). Thus, the provision for "Joint Account" between the state and local government councils is a huge impediment on financial autonomy of local government councils.

The former Deputy Senate President, Ike Ekweremadu, justified the demand for local government autonomy this way: "in 2002, the state governments brought a suit against the Federal government for deducting first line charges for joint venture investment in oil sector, Nigerian National Petroleum Corporation priority project and external debt service" (Eme & Okeke, 2013) in Ojugbeli & James (2014). Ekweremadu noted that, while the Supreme Court judgment favoured the state governments, it appears that most states are guilty of the same act as the local governments in many instances have continued to suffer fiscal emasculation in the hands of state governments. In all these unwholesome abuses, Sections 7 and 162 of the 1999 Constitution among others have been an escape route for many State Governments to manipulate the Local government and reduce same to a mere department in the Governors' office. State joint local government account (SJLGA) has been the anti-development instrument used to frustrate every progressive and patriotic action to make the Local Government work since the return of the Country to democracy in 1999.

Financial Control and Accountability in Local Government

According to Kushlak (2015), financial control is among the significant roles of the local government as a mechanism of enforcing implementation of financial policies and ensures effective use of public financial resource. Tommasi (2010) in Kushlak (2015) argued that strong efficient and effective internal controls in local government determine financial accountability since they guarantee independent task execution, objective assurance and consulting activity designed to add and improve operations. Furthermore, it helps an organization to accomplish its objectives by bringing a systematic, disciplined approach to evaluate, and improve the effectiveness of risk management, control, and governance processes. Over the years, the scope of financial accountability has expanded rapidly and significantly, reflecting changing tasks, expectations and an emphasis on 'prudent macroeconomic management which requires governments across the Globe to be accountable for ensuring adequate systems to secure and improve results to maintain the financial condition of the state (fiscal sustainability, flexibility in the use of resources, and reduced financial vulnerability) (Fellonicah, 2009). Furthermore, governments have established laws regarding financial accountability based of fiscal transparency, adherence to budget, its contents, and the overall financial system to induce sound financial accountability in the local governments (Okoh, 2010).

Effective implementation of financial accountability improves service delivery in local councils which bolster their functional independence, a virtue that is very important for institutions such as the revenue administrations and procurement agencies (Klout,2009) in Boquist (2010). According to Schedler & Andreas (2010) in Kushlak (2015), financial accountability is a relationship based on obligations to demonstrate, review, and take responsibility for performance, both the results achieved in light of agreed expectations and the means used. Nalband (2010) in Kushlak (2015) argued that, roles for local governments managers are to foresee a future in which citizens are fully engaged in local governance through engaging them (citizens) at implementation level, following the set priorities to determine financial accountability and service delivery. Langlois, Beschel & Staphenurst (1998) expound that strong financial management systems are very efficient instruments for averting, discovering and facilitating the punishment for misusing public resources and corruption. In general, funds of the subnational governments are managed by the key officers of respective councils (Ojo, 2009) in Ojugbeli & James (2014). In this respective power of local officials, financial management is required to institute strong mechanism of accountability to enforcing local official to abide with stipulated financial rules and regulations. Moreover, in order to enable local governments to work efficiently and effectively, there should be a proper financial management and accountability for all available resources (Asuquo, 2014). Also, it should be noted that control mechanisms have positive significant impact on the effectiveness of financial management (Wikiriba, Ngahu & Wagoki, 2014). Drucker (2011) argued that inadequate funding of local government sector hamper effective and efficient financial accountability. Charles (2007) argued that inadequate funding in public sector disrupts the sector's budgets which hamper financial accountability. Boquist (2010) postulated that selfish individual interests on allocation of funds in public sector like local governments in developing countries adversely affect the financial accountability. Selfish interests lead to greed and scramble for resources amongst officers in charge. Millan (2011) argued that corruption among local officials is the primary inception of financial greed which leads to selfish interests on allocation and misuse of

funds. This has hampered financial accountability in local government. Similarly, Okello (2011) argued that the turnover rate of accounting officers in local governments adversely affect financial accountability. Welhet (2009) in Fatile et.al (2017) argued that fraudulent process in the appointment of Accounting Officers in local government led to poor financial accountability.

Ogunna (2007) in Fatile et.al (2017) posited that local government officials do not comply with the stipulations of the financial memorandum. In the local government system in Nigeria, there is widespread falsification of the accounts of the local government, sometimes payments are made without the services being rendered, local government officials usually collude with contractors to defraud the council through inflation of contract sums and as a result, these forms of negative work ethics are responsible for a very wide margin between expenditure and the provision of real services to the public. Ezeani (2004) however noted that corruption in the form of fraud and embezzlement of funds have been responsible for the failure of some local government councils and has made the needed development of grassroots a tall dream by rendering the local government financially incapable to discharge their constitutionally assigned responsibility (Arowolo, 2006). Ogunna (2007) in Fatile et.al (2017) laments that one of the major problems confronting local government internally generated revenue is that market officials and motor park officials always print fake receipts or sometimes collect money from individuals without issuing receipts, and that such money so collected are diverted into the personal pocket of such official.

Challenges facing Financial Accountability of Local Government Performance in Nigeria

Local Governments as the third tier of government in Nigeria, is expected to promote the democratic ideals of the society and to co-ordinate other socio-economic development programs at the local level in line with the overall national development plan (Onah & Amujiri, 2011). Indeed, the reconstitution of Nigeria into 301, 449, 589 and 774 local government areas in 1984, 1989, 1991 and 1996 respectively was ostensibly meant to bring government closer to the people and speed up grassroots development (Ezeani, 2004). Local government has been perceived as a panacea for the diverse problems of the diverse people with diverse culture. As important as this tier of government has been, there seems to be some impediments that have been infringing on its performance and functions in recent time. Over the years, however, most studies and research findings like Ezeani (2004), Ugwu (2010), Ade (2012), Ani et al (2013) have showed that on local government in Nigeria have not been significantly performing the development roles that underscore their institutionalization in Nigeria. Several factors have been identified to account for the poor performance of the local government. These factors are discussed below:

The ability of local governments to perform development functions, particularly in federal systems like Nigeria revolves around the nature of the relationship between the federal, state and local government as to enable them operate as true units of self (autonomous) government (John and Rupak, 2008). Usually, the problem in this respect revolves around the extent to which the local governments are regarded truly as the third order of the political structure or as mere parts of the state governments and the nature of distribution of powers and resources among the three tiers of government. The relationship between state and local government is more of domination and hijacking of local government functions by state governments rather than serving as moderator/mediator,

despite the fact that local governments were created in order to bring governance closer to the people, yet state-local government joint account does not enable this (Fatile, Fajonyomi & Adejuwon, 2017; Ahmad, Abubakar & Ahmad, 2013).

In Nigeria, the relevant constitutional provisions in respect of these relationships appear inadequate and unfavourable to the local government. The 1999 Constitution of the Federal Republic of Nigeria did not provide adequately for the political autonomy of the local governments. The resultant effects of these inadequacies are that the state governments have the discretion to determine the nature, content and direction of local government elections and political activities. Although the constitution enjoined states to pay 10 percent of the statutory revenues to local government councils (LGCs), in Nigeria very few states honoured the provision. The failure of the constitution to articulate a clear line of authorities to both the state and local authorities and the continuing debate over the involvement of state governments in distributing local government allocation from the Federation Account has affected the capacity of local governments to provide essential services at the grassroots (Fatile, Fajonyomi & Adejuwon, 2017). The interference in the local government statutory allocations by the state governments reasonably accounts for the inability of the local governments to initiate and execute development programs or projects. The resultant effect of this is the inadequate financial base of most local governments in Nigeria, which makes it practically difficult to carry out their constitutional functions effectively (Okoli, 1999). The Nigerian Local Government system, like those of most African countries, are characterized by political instability, scarcity of resources, lack of accountability, poor planning, lack of political leadership, and poor grassroots participation (Adebayo 2004; Wunsch & Olowu 1996).

The effective performance of the assigned functions of the local government requires the availability of fund. For this, adequate funding of the local government becomes critical and imperative. The financial resources of most local governments in the country, when compared to their expenditure responsibilities, is grossly insufficient. This situation has remained as such over the years even though the local governments have several sources of income that basically include statutory allocations from the federation account, share from state generated revenue and revenue internally generated. Okolie & Eze (2006), Ofoeze (2002) observed that the internally generated revenue by the local governments has been very low due partly to lack of creativity by the local governments to identify and explore new and reliable sources of revenue and partly to high incidence of tax evasion and avoidance by the citizens. Also, it has been observed that allocations from the federation account are, most times and in reasonable measures, siphoned by the state governments through the instrumentality of the State Local Government Joint Account into which allocation from the federation account is paid (Nchuchuwe & Adejuwon, 2015). Moreso, Halidu (2012) and Anikeze (2012) in Nchuchuwe & Adejuwon (2015) found that the high level of corruption in the local government makes it difficult for them to channel even the available scarce resources towards development projects and programs. Specifically, corruption in the local government system in Nigeria, manifests, for instance, in the award of inflated and fictitious contracts, inflation of staff salary, fraudulent sale of government property, outright embezzlement of local government fund and payment of huge sums of money to political godfathers.

Local Government Financial Autonomy and Accountability: Lagos State in Perspective

Functioning local government is pivotal to the development of communities, especially when the central and state governments are in effect absent. Lagos State's 20 local government areas (LGAs) were supplemented in 2003 with the establishment of 37 local council development areas (LCDAs), entities not statutorily approved by the National Assembly but with the same function as LGAs. A Supreme Court judgement ruled the creation of the LCDAs as "valid but inchoate". For the 57 local authorities to perform their constitutional role, adequate financing is essential. Without it, the provision of social services and infrastructure is impossible. The Lagos State government continues to hold the purse strings, only disbursing funds to cover the running costs of each local government body despite the constitutional requirement that 20.6% of the Federation Account must be allocated to this tier of government. Also in contravention of the constitution, the state has failed to hold any local government elections since 2011 (Akinyemi, 2017). The celebrated case between Lagos state one hand and the federal government on the hand. In that case, the Supreme Court had ruled that the central government lacked the constitutional power to bypass the regions and to appropriate fund directly to the local government. Comparing local governments status in Nigeria and the USA, Osakede & Ijimakinwa (2014) asserted that even though there more degrees of local fiscal independence, in none of the two countries is there a complete autonomy: because local governments in both countries derive their major revenue source(s) from the regions and the centre.

In Lagos State all manner of gazettes, policies and laws are being produced on daily basis. If it is not to take over the collection of revenue and other statutory functions from Local Governments, it will be to deploy some cadres to State Government Boards or Commissions, all in the brazen and rapacious desire to exercise their excruciating control on the Local Government.

Repositioning the Local Government for Enhanced Performance: A Road Map

The nearness of local governments to the people places them in a position where they can easily articulate and aggregate the demands of the people. A government operating at the grassroots level is indeed, more likely to be attached to the needs of the people. More importantly, the state governments' involvement in local government affairs should be acknowledged and appropriate institutional arrangements made to regularize this involvement. Based on this a National local government commission should be established among other things coordinate the Inter-governmental aspects of local government affairs on a continuous and permanent basis. Osuebi et.al (2019) posits that there is need for the scrapping of the state independent electoral commission, their function and power should be transferred to the independent national electoral commission because they remain an appendage to every incumbent governor and perceived as the root cause of the problem of local government.

There is need for constitutional reforms to ensure that the local government has direct and unfettered access to the statutory allocations from the Federation account and their share of the internally generated revenue. The 1999 constitution of the Federal Republic of Nigeria needs to be amended so as to grant financial autonomy to states. That the provision for the State Local Government Joint Account is expunged from the constitution. To ensure the financial accountability of the local government, an independent and effective internal control system must be put in place in all local governments in

Nigeria as this will greatly enhance the task of the director of local government audits in the state. Strong internal control measures should be instituted in all local governments on the following principles-segregation of duties, authorization procedure, documentation procedure, accounting records, physical control, and independent internal verification; for proper control and monitoring of local government finances, while strict penalty should be put in place to punish any officer of the local government who fails to demonstrate transparency and integrity in the discharge of his or her duties. Campo (2010) argued that strengthening the internal controls system, processes and infrastructure for public financial management in local government induce financial accountability through inaction of other effective accountability laws. A proper accountability framework would require the government to put in place guidelines for preparing and approving work plans, methods of monitoring plans, reporting performance, accumulation of portfolio of evidence on performance reporting, systems of validation and oversight of performance reports, establishing and resourcing public accountability institutions, training public managers and guidelines for dealing with political institutions by public managers. Lorain (2015) found out that effective budget management through joint participation of all stakeholders together with the evaluation function provides senior management with an analysis tool that allows effective financial accountability. Ramkumar (2009) argues that improvement on recruitment; promotion and placement in the local government to set optimum required skills needed to fulfill the basic job requirements to induce financial accountability. Financial accountability requires knowledge competence which needs to be accelerated through on job training of accounting officers in local governments on modern accountability techniques especially this digital era.

Conclusions

The expediency for the creation of local government in a governmental system anywhere in the world stems from the need to facilitate grassroots or local development and by extension national development. The basic rationale behind the creation of local government is to meet the peculiar needs of the people at the grassroots (Nwankwo, 2001). However, it is pathetic to note that the local governments have demonstrated incompetence in regards to its revenue utilization. The local government as the third tier of government in Nigeria and as enshrined in the constitution is ostensibly meant to serve as are an institutional framework for effective service delivery to the grassroots and the overall national development. However, local governments in Nigeria has been performing poorly in provision of essential services to the people due to absence of autonomy. Rather than function as a tier of government, local government has been operating as an appendage of the state government in Nigeria. The State Joint Local Government Account has placed the local government councils in a political bondage. The local governments in Nigeria need to be saved from the clutches of the state authorities. The running of joint accounts between state governments and local councils has messed up the much-needed pace of development which it was expected to hasten at the rural level.

The study considered significant contribution of financial accountability in facilitating smooth provision of public social services in local governments. Repositioning them to perform the development roles optimally and hence contribute more meaningfully to local and national development requires putting in place the recommended measures for

controlling corruption and enhancing both the financial and political autonomy of the local governments. It has been observed that transparency and integrity in financial accountability of local governments have a significant relationship with local government performance. In most developing countries, local governments can only be assumed to be performing if projects and services delivered meets the local demands of its citizens. This study shows that transparency and integrity enhance the effective performance of local government in Lagos state.

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ON THE IMPORTANCE TO STUDY OLDER ADULT'S WELL-BEING

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Alexandra-Cristina SIRBU

Doctoral School of Economics and Business Administration
Alexandru Ioan Cuza University of Iași
Iași, Romania
sirbuac@gmail.com

Abstract *Human progress in increasing life expectancy does not appear to be slowing down. This can be understood as an achievement for humanity, but can also pose a challenge to aging populations. Despite the fact that aging is inevitable, it is also an experience to be cherished. Consequently, to address the issue of an increasingly aging population in the future, new strategies are necessary to combat the challenges that individuals may face, given that as they age, individuals are more likely to encounter adversity. In light of this, it is becoming increasingly clear that the assessment of individual well-being should be at the centre of governments' attention, as it underpins healthy and productive aging. The growing trend of aging is putting an increased emphasis on healthy living and maintaining well-being is imperative. Enhancing individuals' well-being makes them more productive for the economy and helps to reduce healthcare costs at the same time. The study and promotion of older adults' well-being therefore has a significant impact, not only on the individual but also on society as a whole.*

Keywords *older adults, ageing, well-being.*

Introduction

In recent decades, older adults have become an increasingly integral part of the global population, given the demographic ageing phenomenon we are facing. This demographic change has far-reaching socio-economic and political implications for people of all ages.

Much of the public discourse about older people is negative, but the fact that old age brings challenges and costs should not be seen as a negative aspect of life. The costs associated with ageing clearly have implications for individuals, governments, communities, families. These include higher health and support costs, which are challenges for governments, and lower tax revenues as this age group retires. None of this should lead to the conclusion that older people should be seen as an economic liability and a social burden.

Although much of the public discourse about older people is negative, the elderly also make valuable contributions to society, both material and non-material, and younger generations benefit from their experience. Increased longevity and the growing presence of older adults create new opportunities for both individual and social development. On the other hand, despite the fact that the life expectancy of the ageing population has increased in recent decades, this does not necessarily imply that the quality of the years spent in the later stages of life has also improved. Thus, social and economic policies, services and research are needed to enhance the well-being of older adults and to eliminate the ageism

that prevents older people from living with dignity, realising their full potential and gaining resources.

Another important point to note is that not all people experience old age in the same way, so despite the fact that ageing is a natural and inevitable phase of life, it can have its own set of outcomes.

Given this context, along with the characteristics and changes associated with ageing, ensuring well-being for older people is a very important challenge that will continue to gain importance both as a global challenge as well as a domestic priority in most countries.

Well-being is an important outcome for individuals, groups and society as a whole. In the context of demographic ageing, it is becoming increasingly important to know what constitutes well-being, how it is formed and how it can be improved or maintained. Knowledge of well-being trajectories can contribute to keeping more and more older adults as active as possible.

Defining well-being

The meaning of a good life is a controversial issue for which there is currently no universally accepted consensus on what well-being means for society and what it means for a person. One of the main reasons why this term is so ambiguous is because there are different ways in which it can be used. Consequently, terms such as quality of life, happiness, prosperity, life satisfaction or health are used interchangeably with well-being, but nevertheless these terms differ in their nuances.

Thus, as a consequence of all these related concepts, it has become difficult to compare studies both across and within disciplines. It is also important to note that the use of different theoretical models and different measures and methodologies creates a very broad and diverse field of well-being.

According to the various theoretical propositions presented in Table 1, the concept of well-being is defined by different components, which highlights that a construct that is not directly observable corresponds to a complex set of phenomena that can be deduced analytically either from the general concept that encompasses them or empirically from their recurrent interrelationships (Lazarsfeld, 1973). We can also see that well-being is increasingly presented as embodying a series of components organised around central human needs.

In terms of the well-being of older adults, this is a significant challenge given the ageing process (Steptoe et al., 2012; Demakakos et al., 2010). It is often understood as the experience of being in good health, of being clinically healthy, but being well is not always about physical health and the absence of disease. Although there is a general consensus that well-being is particularly affected by the ageing process (Barnes et al., 2013), it can be said that a person can experience well-being even following a diagnosis of a chronic illness (Gasper, 2007b; King, 2007; Myers & Diener, 1995). Thus, well-being is not only related to biological health, but also to how people feel about their zest for life, the experience of a meaningful life, referring also to positive moods and emotions, lack of depression and anxiety, life satisfaction (Graham & Shier, 2010). Equating well-being with health may be a consequence of conceptual ambiguity.

Table 1: Definitions of well-being used in the literature

Definition	Reference
„Wellbeing stems from the degree of fit between individuals' perceptions of their objective situations and their needs, aspirations or values.”	Andrews & Withey, 1976
”Subjective well-being research is concerned with individuals’ subjective experience of their own lives. ”	Diener et. al., 1999
”Well-being is a state of being with others, where human needs are met, where one can act meaningfully to pursue one’s goals, and where one enjoys a satisfactory quality of life.”	ESRC Research Group on Wellbeing in Developing Countries www.welldev.org.uk
”This is a dynamic state, in which the individuals is able to develop their potential, work productively and creatively, build strong and positive relationships with others, and contribute to their community. It is enhanced when an individual is able to fulfil their personal and social goals and achieve a sense of purpose in society”.	New Economics Foundation, 2008

**Source: author’s processing*

Similarly, the Older People's Commissioner for Wales sees the well-being of older adults as the 'life' that has value, meaning and purpose when: they feel safe and are listened to, valued and respected; they are able to get the help they need, when they need it, in the way they want it; they live in a place that suits them and their life; they are able to do the things that matter to them.

Thus, well-being is related to more than just older adults' self-assessment and perception, and it is specifically important to also consider people's 'functionalities' and freedoms as measures of well-being beyond what they report and perceive. Ultimately, what really matters is the extent of opportunities and the degree of freedom to choose the life they want. Ultimately, this concept should be understood as a term composed of different aspects and factors, each with relative significance.

The importance of well-being

Understanding and knowing well-being is a real challenge as it requires an understanding of human life and its processes of change and development. As a result of the demographic ageing phenomenon we are facing, significant changes are taking place in the whole population, and it is well known that in the near future the largest segment of the population will be the elderly. Thus, increasing longevity is accompanied by a need for well-being as a vital and critical component to add life to the years.

Well-being is generally perceived as a "good thing" and a "fundamental goal of any society" (Rees et. al., 2009). Thus, both as a matter of public policy as well as a matter of private interest, well-being should be the ultimate goal. It is important to stress that in the current context of rapidly ageing societies, studying well-being as age increases implies a particularly interesting research question not only for policy makers but also for all aspects of society. Therefore, as a society, it is very important that our attention turns to areas that are vital to the well-being of the older population, such as workforce and retirement, social networks, context and neighbourhood, health and material resource disparities, discrimination, long-term care, physical functioning.

According to the well-being paradox, individuals often experience high levels of well-being despite age-related declines (Windle, 2011). Thus, increasing the well-being of the elderly in the face of the adversities they experience is one of significant public health interest and importance as increased longevity undoubtedly leads to a particular demand for health care. Thus, a major challenge is to understand this age group and to counteract the increase in the number of diseases in the elderly, which will lead to a decrease in the tax burden for both the health and pension systems, because as the population ages, higher dependency rates and higher health care costs are generated. What is needed is a society that does not segregate and stigmatise people in poor health, but instead provides them with dignity and quality medical and psychological care leading to a decent standard of living, so that they can consequently lead a dignified and quality life.

Therefore, maintaining good physical health and functioning as a mean of facilitating independent mobility and enabling older adults to engage in more integrated functional roles that include activities of daily living, fulfilling social roles and involvement in recreational activities is becoming increasingly important (7,13).

In addition to the massive presence of degenerative diseases that lead to reduced mobility and increase the risk of dependence on family and society among older adults, well-being is also linked to material circumstances. Concern about having sufficient material resources after retirement can reduce well-being and limit people's options. Fears about future financial security and budget cuts in the health and social care sector can increase the anxiety older people feel in the current economic climate. Hence, there is a need to promote the encouragement of older people to stay longer in the workforce, and at the same time to remove barriers around age limits that prevent people from getting involved and staying involved in meaningful activities to the extent they would like.

Social well-being is at the heart of an older person's social functioning. As people age, their social relationships may diminish as friends or even partners may die, and these changes have negative effects on well-being (Charles and Carstensen, 2010). It is also noted that social networks and social support are factors that make older adults adhere to exercise more often (Smith et al., 2017). Also, according to Mayer and Klumb (2005), participation in social activities among older adults is associated with reduced mortality rates beyond participation in other leisure activities. Moreover, participation in social activities encourages a sense of belonging, with social integration becoming part of the person's inner world, which facilitates positive psychological states that in turn enhance positive physiological outcomes (Cohen, 2004). As such, it is becoming increasingly important for older people to maintain strong social connections and engage in the community.

New Economics Foundation (2012) mentions that a well-being based approach is important as it allows to:

- Go beyond focusing on what can go wrong, and focus on what makes people's lives successful;
- Look at the strengths and assets people bring to situations and communities, rather than only focusing on what they lack;
- Focus not only on economic circumstances, but also on the important areas of emotional and social needs of people.

Having a good understanding of what makes older adults' lives go well, seeing all the positive things that they can do and considering their emotional and social needs, promotes the development of projects and services that better suit the many aspects of their lives.

Conclusion

The ageing process is not something we can reverse, but as part of a life cycle it is something that helps us determine how we perceive our personal well-being at this point in time. Moreover, despite the fact that there has been a loss of autonomy and adaptability in the elderly, and that the possibility of health fragility, abandonment of the workplace, and reduction in family and social roles has gradually increased, these circumstances are not considered to be determinative for all older adults, as this population is heterogeneous.

Therefore, in an era where many countries are facing the challenges of an ageing population, it would be ideal to obtain more information about the well-being of older people and the factors influencing it, so that appropriate policies can be formulated to support a healthy and long life. It is also important to identify areas of high and low well-being for this group to help develop policies and to help provide the necessary services.

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MONETARY INFLATION AND FISCAL SPENDING IN NIGERIA

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Anu Keshiro TORIOLA

Department of Economic, Olabisi Onabanjo University,
Ago-Iwoye, Nigeria
toriolaanu@gmail.com

Walid Gbadebo ADEBOSIN

Department of Economic, Olabisi Onabanjo University, Ago-Iwoye, Nigeria
adebosin@yahoo.com

Adegboyega Sule OYEWOLE

Dept. of Bus. Education, Micheal Otedola College of Primary Education,
Noforija-Epe, Lagos
oyewoleas@mocped.edu.ng

Felix ABERU

Department of Economics, Tai Solarin University of Education,
Ijagun, Ogun State, Nigeria
aberuf@tasued.edu.ng

Abstracts: *In Nigeria, fiscal expenditures continue to grow without a corresponding increase in revenue. This has worsened fiscal sustainability resulting in high rate of deficits and severe inflationary pressure. In this study, we examined the relationship between monetary inflation and fiscal spending in Nigeria using time series data from 1981 to 2016. Following ex post facto research design, we employ Least Squares (LS) technique in the estimation while line graph, normality test, correlation analysis were used in the preliminary analysis. Data for the model in which inflation was made a function of government recurrent expenditure, government capital expenditure and interest rate were collected Central Bank of Nigeria (CBN) Statistical Bulletin. The findings indicates that government capital spending ($\beta = -0.778665$, $t = -10.1298$, $p < 0.05$) exert a significant negative effect on monetary inflation in Nigeria, money supply ($\beta = 1.556819$, $t = 2.7021$, $p < 0.10$) exert a significant positive effect on monetary inflation in Nigeria. However, government recurrent spending ($\beta = -1.0005$, $t = -0.1970$, $p < 0.10$) exerts no effect on monetary inflation in Nigeria. The result suggests that inflation do not grow with the growth in fiscal spending a results which implies that government fiscal spending has not reach a level that it can stimulate inflation and that, inflation is indeed monetary phenomena in the country. Therefore, government needs to discourage all non-productive expenditures since fiscal spending has been shown to be ineffective neither in raising aggregate demand nor stimulating inflation. Also, contractionary monetary policy as well as economic diversification and import reduction policies that can bring about stable inflation rate should be revitalised.*

Keywords: *Fiscal spending, Inflation, Capital spending, Recurrent spending, Nigeria*

Introduction

One of the macroeconomic goals of every government is to maintain stable domestic price level in order to avoid the cost of inflation or deflation and the uncertainty

that follows where there is price instability (Salam, Salam & Feridun, 2006). At any particular point when this objective is not realised and the price level continue to rise, the purchasing power of the currency of such a country will go down against the currencies of the rest of the world (Fatukasi, 2010). To buttress this position Okimoto (2018) stated that, inflation rates significantly influence the behaviors of individuals and firms since inflation affects the value of money. However, inflationary pressure is not peculiar to country, region or race; it is a challenge that has implication on every economy (Osuala, Osuala & Onyeike, 2013). Although inflation has negative effect on economic performance when it is high, it is also destructive when it is zero because it will result in economic stagnation since economy requires a definite minimum level of inflation for economic growth (Hossain, Ghosh & Islam, 2012) referred to as non accelerating inflation rate of unemployment. Thus, to maintain a stable price level, modern government put in place policies and measure to control inflation. Economic scholars are divergent on whether inflation is a monetary or non-monetary phenomenon. Several scholars view inflation as strictly a monetary phenomenon by pointing out that inflation occurs when the rate of growth of the money supply is higher than the growth rate of the economy (Akca, Alper & Ozmucur, 1996; Chimobi & Igwe, 2010). This is the conventional monetarist linkage from the creation of base money to inflation. In line with this perspective, inflation is seen as a condition in which the rate of growth of the money supply is higher than the growth rate of the economy (Bakare, Adesanya & Bolaarinwa, 2014). According to Keynesian view, government needs to spend to stabilise the economy, stimulate or enhance productivity or investment through direct public spending and investment. Government also spends in order to redistribute income between the rich and poor. However, in line with the view of neo-Classical economists, increase in government spending in form of intervention could result to high inflation outcomes given the full-employment assumption (Olayungbo, 2013). There is also controversy on the direction of causality between fiscal spending and inflation. An increase in government spending may raise inflation and inflationary pressure may also translate to growth in government spending in both developing and developed economies (Ezirim, Muoghalu & Elike, 2008).

One of the pronounced macroeconomic problems confronting Nigeria is the problem of inflation. It redistributes income and wealth in favour of some, and greatly harms others as it has made the life of the poor more miserable (Egbulonu & Wobilor, 2016). Its effect on the economy is so severe that the real GDP of the country over the years is stunted. Since the 1970's, there has been a continuous increase in inflation rate. After an appreciable economic performance in the early 1970s, the Nigerian economy witnessed some anxious moments in the late 1970s to mid 1980s. Severe pressures built up in the economy mainly because of the expansionary fiscal policy of the federal government during these years. This was exacerbated by the transfer of government sector deposits to the banks and the resultant increase in their free reserves with adverse consequences on the general price level. The inflationary pressure was further aggravated by high demand for imports of both intermediate inputs and consumer goods due to over valuation of the naira which made imports relatively cheaper than locally manufactured goods (Osuala, Osuala & Onyeike, 2013). Government of Nigeria over the years have adopted several fiscal policy measures to counteract the effect of inflation, but still the problem has been at increase, which means that despite the government's position to have minimal single digit inflation, it seems nothing has actually been done (Egbulonu & Wobilor, 2016). Thus, fiscal

expenditures continue to grow without a corresponding increase in revenue. This has worsened fiscal sustainability resulting in high rate of deficits and severe inflationary pressure. In view of the decreasing price of crude oil in the international market accompanied by lower revenue generation, the rising inflationary pressure has continued to serve as a major obstacle to ensuring sustainable growth in Nigeria (Idris & Bakar, 2016). Against the analytical background, empirical studies on the link between fiscal spending and monetary are sparse especially in the developing countries of Africa with Nigeria inclusive. Prior studies in Nigeria have focused their study on the relationship between government spending and economic growth and the relationship between fiscal deficit and inflation rate (Olayungbo, 2013). The limited existing studies in Nigeria on public expenditure growth and inflation (See Olayungbo, 2013; Nyambe and Kanyeumbo, 2015; Ojarikre, Ezie and Torika, 2015) failed to account for the implication of money supply on inflation and or the distinct effect of the two main components of fiscal spending on inflation which are two critical issues essential for the formulation of monetary and fiscal policy to combat the prevailing inflationary trend in the country. It is against this background that this study investigate the relationship between monetary inflation and fiscal spending in Nigeria. The specific objectives of the study are to: Analyse the trend of inflation and fiscal spending in Nigeria; evaluate the relationship between inflation and fiscal spending in Nigeria and; Investigates the direction of causality between inflation and fiscal spending Nigeria. The uniqueness of this study is that the outcome will assist in re-designing fiscal policy in Nigeria in a way that it can be used stimulate aggregate demand and control inflation. Specifically, the study will help in restructuring the tools of fiscal policy especially government fiscal spending with a view to diversify the economy, reduce the existing high inflation rate and also raise the living standard.. The study would serve as a tool and a guide towards the formation of policies and how they are implemented to help curb the problem of inflation in the country and increase growth. This study would also encourage the government to see the need for a serious reconsideration of its policies in a way avoid wastages and best enhances citizens' well-being. This introduction section is followed by literature review, methodology after which we present the empirical results, discussion and conclusion.

Literature Review

In this section, we conceptualized monetary inflation and fiscal spending drawing evidence from existing studies and theories. Mishkin (2008) define inflation is the rate at which the general level of prices for goods and services is rising, and, subsequently, purchasing power is falling. According to Akofio-Sowah (2009) inflation is the percentage change in the local currency import prices resulting from a one percent change in the exchange rate between the importing and the exporting country. Jhingan (2005) refers to inflation as a persistent and appreciable rise in the general level of prices. It is a sustained or continuous rise in the general price level or alternatively, as a sustained or continuous fall in the value of money. Inflation is associated with rising price. It is a situation in which there is a continuous fall in the value of money as there is too much money chasing after too few goods (Lotfalipour, Montazeri and Sedighi, 2013). Inflation may result from the demand pull when aggregate demand is greater than aggregate supply, cost push when there is increase in the cost of production, structuralist when there is structural rigidities,

market imperfection and social tension and monetarists factors when increase in money supply is greater than the increase in real output (Essien, 2000). Meanwhile, Bakare, Adesanya & Bolaarinwa (2014) conceptualised monetary inflation from the conventional monetarist linkage perspective which sees inflation as a condition in which the rate of growth of the money supply is higher than the growth rate of the economy. In line with this perspective, inflation is defined as a sustained increase in the supply of money by the monetary authority of a country. On the other end, government fiscal spending or expenditure refers to expenses incurred by the government for the maintenance of itself and provision of public goods, services and works needed to foster or promote economic growth and improve the welfare of people in the society. Government (public) expenditures are generally categorized into expenditures on administration, defense, internal securities, health, education, foreign affairs, etc. and it has capital and recurrent components as well as productive and unproductive components. Productive expenditures are in form of investment which helps the economy to improve her productive capacity while the unproductive versions are expenditures in form of consumption (Bhatia, 2002).

In the theoretial literature, theory is replete on the determinant of inflation and its implication on the economy and basic economic variables. According to demand pull theory, an excess in aggregate demand over aggregate supply will generate inflationary rise in money. The theory states that at full employment, doubling money supply, price level will double. In cost-push inflation theory, inflation result from wage increases enforced by unions and profit increases by employers. This type of inflation is now known as the “New Inflation”. Modern quantity theorists led by Friedman hold that “inflation is always and everywhere a monetary phenomenon”. Hence, the higher the growth rates of nominal money supply, the higher the rate of inflation. A modification in the quantity theory of money is traceable to Irving Fisher’s famous equation of exchange: $MV = PQ$ where he emphasized that any change in the quantity of money affects only the price level or the monetary side of the economy, with the real sector of the economy totally insulated. This indicates that changes in the supply of money do not affect the real output of goods and services. According to the Keynesian theory, the relationship between changes in the quantity of money and prices is non-proportional and indirect, through the rate of interest. The strength of the Keynesian theory is its integration of monetary theory on the one hand and the theory of output and employment through the rate of interest on the other hand. Thus, when the quantity of money increase, interest rate falls leading to an increase in investment and employment. In other words, the Keynesians see a link between the real and the monetary sectors of the economy, an economic phenomenon that describes equilibrium in the goods and money markets (IS-LM). Accordingly, so as long as there is unemployment, output and employment will change in the same proportion as the quantity of money, but there will be no change in prices.

Against the empirical background, several studies have examined the relationship between government spending and economic as well as fiscal deficit and inflation nexus across countries to capture the link between fiscal spending and inflation empirically. For instance, Nguyen (2014) using cointegration and Vector Error Correction Model investigates the long-run and short-run impact of government spending on inflation in three Asian emerging economies including India, Indonesia and Vietnam for the period 1970-2010. The results show that the differences in institutions and governance system of these countries hardly affect the long-run impact of government spending on inflation. In the

short-run, a cointegrating relationship was found between government spending and inflation, which is either a direct or an indirect link through interactions with GDP per capita or nominal exchange rate. In a similar vein, Okimoto (2018) employed smooth transition Phillips curve model to examine the dynamics of trend inflation in Japan over the last three decades based on the. The study found that there is a strong connection between the trend inflation and monetary policy regimes. The results also suggest that the introduction of the inflation targeting policy and quantitative and qualitative easing in the beginning of 2013 successfully escaped from the deflationary regime, but were not enough to achieve the 2% inflation target. Finally, the results indicate the significance of exchange rates in explaining the recent fluctuations of inflation and the importance of oil and stock prices in maintaining the positive trend inflation regime.

In another study, Conti Neri and Nobili (2017) quantify the contribution of a set of structural shocks, identified by means of sign restrictions using a Bayesian VAR, to inflation and economic activity. A country analysis confirms that the negative effects of oil supply and monetary policy shocks on inflation was widespread, albeit with different intensity across countries. The ECB unconventional measures since 2014 contributed to raising inflation and economic activity in all the countries. All in all, our analysis confirms the appropriateness of the ECB asset purchase programme. Similarly, Pfajfar and Zakelj (2017) explore the interaction between the formation of inflation expectations and monetary policy design using laboratory experiments within a New Keynesian framework. The findings suggest that, instrumental rules that use actual rather than forecasted inflation produce lower inflation variability and reduce expectational cycles. It also shows that forward-looking Taylor rule where a reaction coefficient equals 4 produces lower inflation variability than rules with reaction coefficients of 1.5 and 1.35. Inflation variability produced with the latter two rules is not significantly different. Moreover, the forecasting rules chosen by subjects appear to vary systematically with the policy regime, with destabilizing mechanisms chosen more often when inflation control is weaker.

In Nigeria country specific studies, Olayungbo (2013) examines asymmetry causal relationship between government spending and inflation in Nigeria from the period of 1970 to 2010. The asymmetry causality test shows that a uni-directional causality exists from negative government expenditure changes (low or contractionary government spending) to positive inflation changes (high inflation) in the Vector Autoregression (VAR) model. In a similar vein, Egbulonu and Wobilor (2016) using Ordinary Least Square (OLS) Regression and Error Correction Mechanism examined the relationship between fiscal policy and inflation rate in Nigeria from 1970 to 2013. The results found a statistically insignificant positive relationship between government expenditure; government tax revenue and inflation in Nigeria, while government debt stock is positive and statistically significant. The results also reveal that, there exist a long-run equilibrium relationship between inflation and fiscal policy in Nigeria. Nyambe and Kanyeumbo (2015) ascertain the role that government expenditure, household expenditure and inflation plays in growing the Namibian economy using time series annual data for the period 1980 to 2014. The results show the existence of a positive relationship between economic growth, government expenditure, household expenditure and inflation. However, inflation has a negative relationship with economic growth and has *t*-statistics of -3.258. In another study, Ozoh, Uma and Odionye (2016) employed autoregressive Distributed Lag (ARDL) bounds testing which is based on the estimation of an Unrestricted Error Correction Model to

ascertain the influence of fiscal policy on unemployment and inflation reduction in Nigeria. The findings revealed that federal government capital expenditure in the first and second year does not reduce unemployment rate but it does significantly in the third year. Petroleum profit tax and company income tax do not significantly reduce inflation but only custom and excise duty did. The joint effect of all the tax variables was significant in inflation control. Similarly, Ojarikre, Ezie and Torika (2015) examined empirically the causal relationship existing between public expenditure growth and inflation in Nigeria from 1981 to 2012. Employing modern time series econometric techniques such as; Augmented Dickey-Fuller (ADF) Unit Root test, Johansen Co-integration test and the Granger Causality test. The study provides evidence that there is no statistically discernible relationship between government expenditure growth and inflation in Nigeria.

Methodology

The study employs the descriptive research design. The choice of this research design is connected with the fact that it makes impossible to manipulate the variables of interest. This study is anchored on the conventional theoretical framework which supports the correlation between fiscal policy and inflation. Within the conventional theoretical framework, Sargent and Wallace (1981) pointed out the “unpleasant monetarist arithmetic”. They suggest that because of the inter-temporal government budget constraint, central bank’s commitment to price stability will force fiscal authority to act accordingly and keep inflation under control. We have the inter-temporal government budget constraint stated as:

$$s^f + s^m = b \quad (1)$$

In (1), s^f denotes taxes minus government spending, s^m the seigniorage from government-supplied fiat currency (nominal increase in money stock), and b : principal and interest on past real government debt. Equation (1) says that the present value of government revenue should equal to the present value of all the government-issued bonds in current and future periods. In other words, a government has to finance its spending either by revenue from taxes or by issuing bonds. To model the relationship between monetary inflation and fiscal spending in Nigeria, this study adapted the model used in the study conducted by Ojarikre, Ezie and Torika, (2015) on public expenditure growth and inflation in Nigeria where inflation rate was the dependent variable while, capital expenditure and recurrent capital expenditure were the independent variable. As a modification money supply was introduced as additional explanatory variables in the model in line with the focus of this study. The model in functional form is stated as follows:

$$INFL = F(CGS, RGS, MS) \quad (2)$$

The transformation of the model into an econometric model is expressed as:

INFL = Inflation

CGS = Capital government spending

RGS = Recurrent government spending

MS = Money Supply

The expected signs of the coefficients of the explanatory variables are summarized in terms of differentials as follows: Capital government spending is expected to exert indeterminate effect on inflation i.e $\frac{INFL}{CGS} \leq or \geq 0$. Recurrent government spending is expected to exert indeterminate effect on inflation in Nigeria i.e $\frac{INFL}{RGS} \leq or \geq 0$ and money supply is expected to exert a positive effect on inflation in Nigeria i.e $\frac{INFL}{MS} < 0$

Given the nature of the models it is imperative that the data which permit the estimation of the stochastic equations can be collected. The data series covered the periods between 1981 and 2016. The data were obtained from the publication of central Bank of Nigeria, (CBN Annual Report), Statistical Bulletin, National Account and Bureau of Statistics. The secondary data used for the study shall be estimated by the ordinary least square multiple regression analytical method. In the analysis, the study used the Least Squares (LS) estimation technique. The choice of OLS as the estimation technique was based on the fact that the technique is easier to use and also has all the computing power required. Another main reason why the OLS was selected is that OLS results have desirable characteristics. In the preliminary analysis, the data and model were assessed using Jarque-Bera test for normality, the test for multicorrelation and the line graph

Results, Conclusion and Recommendations

I. Pre-estimation results

a. Descriptive analysis

The result of the Jarque-Bera test of normality is presented in table 1.

Table 1: Descriptive Statistics

	INFR	CGS	RGS	MS
Mean	19.97500	372.2700	1047.693	11.89611
Median	12.30000	255.6700	313.8800	10.32500
Maximum	72.80000	1152.800	3831.950	23.99000
Minimum	4.700000	4.100000	4.750000	4.700000
Std. Dev.	18.31039	376.1673	1331.690	5.010316
Skewness	1.494344	0.629473	1.026139	0.898885
Kurtosis	3.954346	1.983581	2.475729	3.048182
Jarque-Bera	14.76454	3.927083	6.730059	4.851443
Probability	0.000622	0.140360	0.034561	0.088414
Sum	719.1000	13401.72	37716.96	428.2600
Sum Sq. Dev.	11734.47	4952564.	62068952	878.6145
Observations	36	36	36	36

Source: Author, 2019

The result shows that all the variables are positively skewed since their means are greater than their medians. Except for government capital spending and money supply government recurrent spending and inflation are highly symmetrical since their skewness coefficients are greater than one. The values of the Jarque-Bera statistics show that government recurrent spending and inflation are normally distributed since their p-values

are statistically significant at 5% level of significance while both government capital spending and money supply are not statistically significant.

b. Correlation matrix

The result of the multicollinearity tests using correlation matrix to detect whether the variables are multicorrelated is presented as follows:

Table 2: Correlation Analysis Matrix

	INFR	CGS	RGS	MS
INFR	1.000000	-0.434050	-0.388144	0.484535
CGS	-0.434050	1.000000	0.905028	-0.482605
RGS	-0.388144	0.905028	1.000000	-0.484656
INTR	0.484535	-0.482605	-0.484656	1.000000

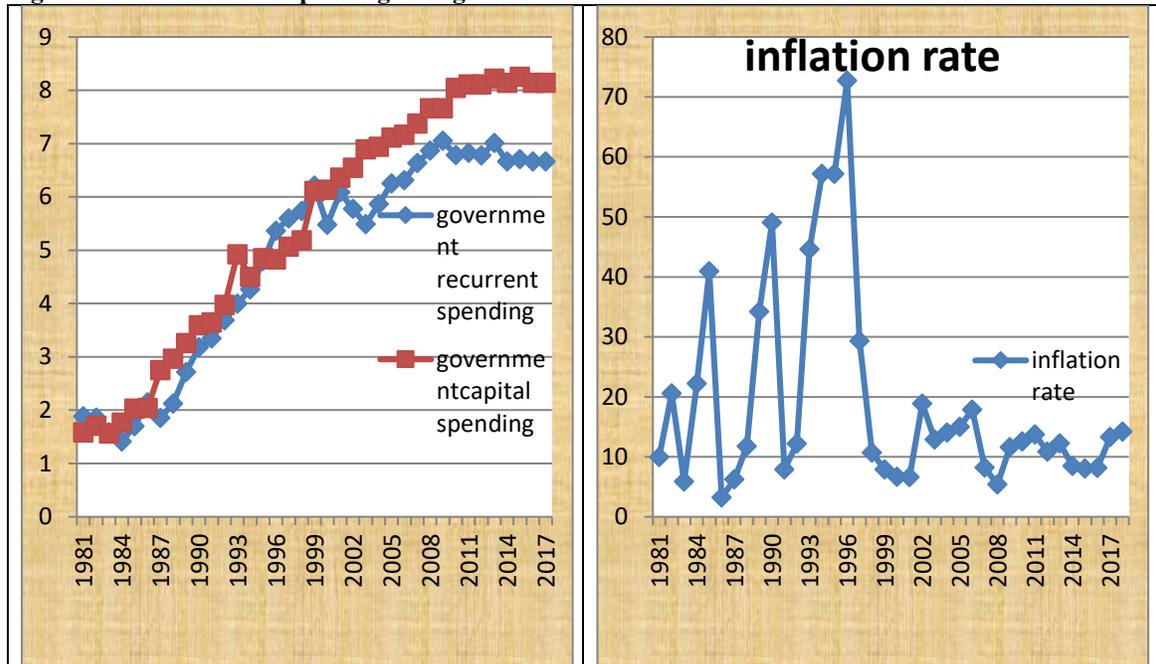
Source: Author, 2018

The correlation analysis of the set of variables in the model as presented in Table 2 indicates the absence of multicorrelation problem among the variables since the association among the variables is not very strong. The result also shows that the association between inflation, government capital spending government recurrent spending is negative while the association between inflation and money supply was negative.

c. Trend Analysis

The trend of monetary inflation and fiscal spending in Nigeria is presented in figure 1 below:

Figure 1: Trend of fiscal spending in Nigeria 1981-2017



Source: Author, 2019

The trend of government recurrent spending and government capital spending as shown in figure 1 indicates that both government recurrent spending and government capital spending have rose rapidly over the period. Between 1987 and 1991 government

capital spending was above government recurrent spending. However between 1987 and 2001 government recurrent spending was above government capital spending. However between 2003 and 2017, government capital spending rose above government recurrent spending. The trend shows that inflation rate in Nigeria has fluctuated upward and downward significantly over the entire period.

d) Lag-Order Selection

The results of lag-order selection criteria for the estimated model are presented in Table 3.

Table 3: Lag-Order Selection Criteria

Lag	LogL	LR	FPE	AIC	SC	HQ
0	-224.4815	NA	0.000274	9.409070	9.691959	9.497667
1	32.54863	317.9078	2.73e-07	2.441474	4.421695*	2.961654
2	73.87380	55.49673	2.82e-07	2.143186	5.820741	3.294950
3	252.9278	66.20968*	3.68e-08*	-2.995023*	4.479864	-1.411675*

Source: Author, 2018

The result in table 3 indicates a maximum of 3 lag as suggested by sequential modified LR test, Final prediction error, Akaike information criterion (AIC) and Hannan-Quinn information criterion (HQ) was used in the analysis

e. Unit root test

The Augmented Dicker Fuller (ADF) test was used to test the stationarity of the chosen variables as presented in Table 7 as follows:

Table 7: Unit root test results.

Variables		ADF Test (Value)		Order of Integration
		Level	First Diff	
CGS		-3.38571	4.59492	I(0)
RGS		-4.55071	-4.23122	I(0)
MS		-6.13949	-1.40293	I(0)
Critical Value @	1%	-2.93914	-2.94227	
	5%	-2.17017	-2.17066	
	10%	-1.78975	-1.78975	

Source: Author, 2018

The result of the Augmented Dickey Fuller (ADF) test showed that all the variables in the data set were stationary at level at 5% level of significance.

II. Empirical Analysis

To determine the effect of monetary inflation on fiscal spending in Nigeria, the result of least squares (LS) regression is presented in table 4:

Table 4: Least Squares (LS) Regression

Variable	Coefficient	Std. Error	t-Statistic	Prob.
LOG(CGS)	-0.778665	5.998157	-10.129817	0.0075
LOG(RGS)	-1.000496	5.072533	-0.197238	0.8449
MS	1.556819	0.576160	2.702059	0.0109

C	10.55705	11.51659	0.916682	0.3662
R-squared	0.874925	Mean dependent var		19.97500
Adjusted R-squared	0.806949	S.D. dependent var		18.31039
S.E. of regression	16.30603	Akaike info criterion		8.525386
Sum squared resid	8508.369	Schwarz criterion		8.701332
Log likelihood	-149.4569	Hannan-Quinn criter.		8.586796
F-statistic	4.044455	Durbin-Watson stat		1.269861
Prob(F-statistic)	0.015161			

Source: Author, 2018

The resulted as presented in table 4 on the basis of student t-test of significance of the parameter estimates showed that while government capital spending ($\beta=-0.778665$, $t=-10.129817$, $p<0.05$) exerts a significant negative effect on inflation in Nigeria, money supply ($\beta=1.556819$, $t=2.702059$, $p<0.10$) exerts a significant positive effect on monetary inflation in Nigeria. However, government recurrent spending ($\beta=-1.000496$, $t=-0.197238$, $p<0.10$) showed no effect on inflation in Nigeria. The adjusted coefficient of multiple determination which was 0.874925 (87.4%) indicates that 87.4% of the variations in monetary inflation in Nigeria is explained by the explanatory variables even as the sample size expanded indefinitely. The Durbin Watson statistics which was 1.269861, shows that there is no autocorrelation in the model.

Conclusion and Recommendations

The resulted of the findings based on student t-test of significance indicates that government capital spending ($\beta=-0.778665$, $t=-10.129817$, $p<0.05$) exert a significant negative effect on monetary inflation while money supply ($\beta=1.556819$, $t=2.702059$, $p<0.10$) exerts a significant positive effect on monetary inflation in Nigeria. However, government recurrent spending ($\beta=-1.000496$, $t=-0.197238$, $p<0.10$) showed no effect on monetary inflation in Nigeria. The adjusted coefficient of multiple determination which was 0.874925 (87.4%) indicates that 87.4% of the variations in monetary inflation in Nigeria is explained by the explanatory variables even as the sample size expanded indefinitely. The Durbin Watson statistics which was 1.769861 shows that there is no autocorrelation in the model

The study concluded that fiscal spending exerts a significant negative effect on monetary inflation while money supply shows a positive effect on monetary inflation in Nigeria. By implication, as both recurrent and capital expenditure are rising, inflation falls against a priori expectation while inflation rises with increase in money supply in line with a priori expectation. The result suggests that inflation is indeed a monetary phenomenon in Nigeria. This submission is as result of the fact that, among the two fiscal spending components tested, only capital expenditure that was found to have a significant effect on inflation but it also fails to follow the same pattern of growth with inflation. Meanwhile, inflation was found to be growing in the same direction with money supply. This result corroborated the findings in the study conducted by Okimoto (2018) who employed smooth transition Phillips curve model to examined the dynamics of trend inflation in Japan over the last three decades based on the. The study found that there is a strong connection between the trend inflation and monetary policy regimes. The results also suggest that the

introduction of the inflation targeting policy and quantitative and qualitative easing in the beginning of 2013 successfully escaped from the deflationary regime, but were not enough to achieve the 2% inflation target. Finally, the results indicate the significance of exchange rates in explaining the recent fluctuations of inflation and the importance of oil and stock prices in maintaining the positive trend inflation regime. The result is also in line with the findings of Olayungbo (2013) on asymmetry causal relationship between government spending and inflation in Nigeria from the period of 1970 to 2010. The asymmetry causality test shows that a uni-directional causality exists from negative government expenditure changes (low or contractionary government spending) to positive inflation changes (high inflation) in the Vector Autoregression (VAR) model. However, the result was in contrast to the findings of Nyambe and Kanyeumbo (2015) on the role that government expenditure, household expenditure and inflation plays in growing the Namibian economy using time series annual data for the period 1980 to 2014. The results show the existence of a positive relationship between economic growth, government expenditure, household expenditure and inflation. However, inflation has a negative relationship with economic growth. In line with the result, the following policy recommendations are proffered for consideration: Government through a sound policy and programmes needs to discourage all her non-productive activities and expenditures since fiscal spending has been shown to be ineffective neither in raising aggregate demand nor stimulating inflation. Also, policy frameworks especially contractionary monetary policy as well as diversification and import reduction policies that can bring about stable inflation rate should be revitalised. It also imperative, that the supply of money by the monetary authority should be kept in the same pace with the growth of output in the economy. Also, fiscal policy should be revitalised in a way that can stimulate economic activities, thereby control inflation.

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LAW

IMPLICATIONS OF INTERFAITH MARRIAGE DIVORCE ON CHILDREN'S CARE RIGHTS IN INDONESIA

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Putu Ayu Diah LAKSMI DEWI

Warmadewa University
Denpasar-Bali, Indonesia
putu.fh@gmail.com

I Nyoman SUJANA

Warmadewa University
Denpasar-Bali, Indonesia

Putu Ayu SRIASIH WESNA

Warmadewa University
Denpasar-Bali, Indonesia

Abstract: *This research is a normative legal research, which concerns the implications of the Divorce Marriage of Different Religious Against Child Custody. Problem 1). What is the legal protection for interfaith marriages in Indonesia ?, 2). What are the implications of the divorce of interfaith marriages for child custody? The purpose of this study was to determine the implications of divorce between different religions for child custody. The benefit of this research is to provide input for the government to take a policy and provide knowledge to the public about interfaith marriages. Results of the discussion: 1). Based on article 35 of the Population Administration Act of interfaith marriages can be recorded based on the determination of the Court as long as it does not violate legal norms and norms of decency, because the Marriage Act does not mention that interfaith marriages are prohibited. 2). If no agreement is found, the court will decide who has the right to obtain custody of the child. Conclusions: 1). Interfaith marriages can be recorded if based on the determination of the court in accordance with the provisions of the Law on State Administration article 35 letter a. 2). Child custody of a minor falls to the care of his mother, as long as the mother has never been proven guilty in court. While a child who is capable of law can choose between his father or mother as the holder of the right to care.*

Keywords: *Marriage of Different Religions, Divorce, Child Custody.*

Introduction

Marriage is one of the important events in human life, in human life with various legal consequences. Indonesia as a State of Law already has a Law that regulates Marriage issues properly in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, afterward referred to as Marriage Law and constitutes the legal foundation and principal rules in marriage in Indonesia. This Marriage Law aims to regulate the perfect, happy and eternal life in a household in order to create love and mutual love in the family. In article (1) of Law Number 16 of 2019 concerning Amendment to Law Number 1 of 1974 concerning Marriage, explaining the meaning of Marriage is a physical bond between a man and a woman as husband/wife with the aim of forming a family (household) who is happy and eternal based on the God (Meliala, 2008). Prior to

Law Number 16 of 2019 concerning Amendment to Law Number 1 of 1974 concerning Marriage, the regulations governing marriage were pluralistic because they were based on the differentiation of the Indonesian population, namely (Sujana, 2020):

1. For native Indonesians who are Moslems, religious law is accepted into traditional law. In general, native Indonesians who are Muslim carry out the Kabul consent, as stipulated in Islamic law.
2. For other Indonesian people customary law applies.
3. For native Indonesians who are Christians, Huwelik Ordonnantie Christen Indonesia (HOCl) S.1933 Number 74.
4. For Chinese Easterners and Chinese citizens of Chinese descent the provisions in the Civil Code.

Along with the times, the condition of pluralism of Marriage Law in Indonesia until now continues to affect the life of the Indonesian people, which can be seen in terms of interfaith marriages that occur in Indonesia, both between Moslems and Hindus, and other religions such as Catholic, Christian, Buddhist and Kong Hu Chu. Religious differences that are embraced, of course, will result in regulations that will regulate his marriage so that it can be declared valid. It is undeniable that marrying someone you love is the desire of everyone. Sometimes religion and regulations become a barrier between the couple. But not a few couples who will do marriages with different beliefs, it can be made possible because of the unlimited intercourse between humans. For this reason it cannot be denied that interfaith marriages are becoming increasingly common in the community.

The enactment of the Marriage Law has been relatively able to respond to the laws and regulations that govern marriages uniformly and for all classes of people in Indonesia. However, this does not mean that this Law has regulated all aspects related to marriage. Examples of issues that are not regulated by the Marriage Law are interfaith marriages, namely marriages between a male and a woman of different religions (Rusli & Tama, 1986). Although interfaith marriages are not clearly regulated in the Marriage Law, the phenomenon of such marriages continues to occur in Indonesian society. It can be seen from both the mass media and electronic media, there are many who do marriages with unreligious couples. For example, for example from a married couple, Jamal Mirdad, a Moslem, married Christian Lydia Kandou based on the South Jakarta District Court No. 238/Pdt/P/1986/PN.Jkt.Sel dated May 29, 1986, a marriage between Andi Vonny Gani P is a Moslem woman married to Hendrik Nelwan who is a Christian based on the Supreme Court Jurisprudence Register Number 1400/K/Pdt/1986 and Marriage between Roy Candra Lesmana a Moslem with Rina Ayuningsih Nareswari who is Christian based on the Establishment of the District Court Number 21/Pdt/P/2001/Semarang Regency PN. Of course there are still many events like this that are not detected by the media.

Running a family life is not as easy and smooth as everyone wants and expects. Many small things and trivial problems to the serious things that are considered unable to be resolved or there is no way out. Divorce is not the will of humans, divorce is not a way out either. No one wants it because marriage is a very sacred thing and takes place once in a lifetime for humans to build a household peace and tranquility. Divorce is done between husband and wife who have religion and the same belief there is no problem in filing a petition/lawsuit to the court, because it is clear if the divorce is carried out by those who have Islam then the religious court will decide it, but if the divorce is carried out by those who adhere to a religion outside of Islam then the State court will decide because it is in

accordance with the absolute authority of a court. This is a dilemma if the divorce is carried out by those who engage in interfaith marriages that are held abroad and also most of the divorce settlement takes place in the District Court. Here the question arises whether the District Court has the authority to terminate divorce of different religions. Wherein it is known that the Indonesian State itself does not recognize interfaith marriages in Indonesia. Here there is an uncertainty in the Indonesian legal system, because the Marriage Law does not explicitly prohibit interfaith marriages, so that many parties who want interfaith marriages, using certain methods to carry out their marriages by utilizing existing legal loopholes in This Marriage Law. And what about the legal consequences on Child Custody in the event of divorce between religions.

Methods

The research method used to compile this journal is to use normative legal research. Normative legal research is research aimed at obtaining objective law (legal norms), namely by conducting research on legal issues and obtaining subjective law (rights and obligations) (Rusli, 2006). Normative legal research in this paper is to study document studies, namely using various secondary legal materials such as legislation, legal theory, and can be in the form of scholars' opinions relating to the subject matter. In other words, this research emphasizes research on existing legal materials in order to answer the problem of the implications of divorce of interfaith marriages for child custody.

Results and discussion

Legal Protection Of Different Marriage In Indonesia

Regarding legal protection, before the entry into force of the Marriage Law, in Indonesia there had been a legal arrangement for interfaith marriages. The regulation in question is a regulation made by the Dutch colonial named *Regeling Op De Gemengde Huwelijken* (GHR) or Marriage regulations contained in *Staatblad 1898 Number 158* (Purwaharsanto, 1992). After the entry into force of the Marriage Law, interfaith marriages tend to be impeded. This is based on the history of the marriage law of 1974 article 11 paragraph 1 which states, "differences due to nationality of ethnicity, country of origin, place of origin, religion, beliefs and descent are not barriers to marriage" and then get amended, then interfaith marriages not possible (prohibited) in Indonesia. In the Marriage Law does not explicitly state that interfaith marriages are prohibited, the Human Rights Law states that everyone has the right to form a family and continue their descent without coercion in accordance with the provisions of article 10 paragraph (1) and paragraph (2). Based on Law Number 24 of 2013 concerning Amendment to Law Number 23 of 2006 concerning Population Administration Article 35 letter a states "Marriage Registration also applies to marriages determined by the Court". What is meant by Marriage determined by the Court is a Marriage conducted between people of different religions. Regarding the determination of the Court, in 1986 in a Supreme Court Consultative Meeting it was decided that the petition for Cassation of the applicant was granted in part by Number: 1400/K/Pdt/1986. Based on the determination of the Supreme Court No. 1400/K/Pdt/1986 was made into jurisprudence by other judges to decide cases on Interfaith Marriage, one of

the examples in Surakarta District Court Decision No.421/Pdt.P/2013/PN.SKa. the efforts made by the government related to the recognition of interfaith marriages are none other than in the context of realizing legal certainty and also legal protection for those who engage in interfaith marriages and also do not conflict with applicable laws and regulations, in this case the Law Number 16 of 2019 concerning Amendment to Law Number 1 of 1974 concerning Marriage. Theories used in this problem are Legal Protection Theory and Legal Certainty Theory. Based on the theory of legal protection, the obligation to register marriages can be placed as a preventive measure from the possibility of birth of violations of the law in the form of violence in marriage with an authentic juridical, evidenced by a marriage certificate. Efforts to obtain legal protection for interfaith marriage couples can be made by making a request to the Court as long as it does not violate the legal norms and the norms of decency. Whereas based on Legal Certainty Theory, requires the creation of general rules or general rules that apply generally in this case regarding interfaith marriages to achieve a legal goal that is legal certainty, justice, and effectiveness or usefulness.

Implications Of Interfaith Marriage Divorce On Children's Care Rights

The child that born cannot determine what religion he will follow, however, the teachings of each religion at the time of the child's birth are clear. For couples of different religions, it will certainly be difficult to make choices about which religious teachings will be followed at the birth of their child. It is possible for this couple to make a deal, for example a boy follows his father's religion and a girl follows his mother's religion, and a religious ritual is performed on the child according the accuracy. But whether the choice of religion for their children's religion can avoid problems in the child later in the day, for example, which is related to the problem of guardian marriage and so on.

The legal status of children born to interfaith marriages refers to the provisions of Article 42 of Law Number 16 Year 2019 concerning Amendment to Law Number 1 of 1974 concerning Marriage mention that a legitimate child is born in or as a result of a legal marriage. So a child born from a legal marriage is done both at the Office of Religious Affairs and at the Civil Registry Office, so the position of the child is a child which valid in the eyes of the law and has the rights and obligations of children and parents as stipulated in Article 45 through Article 49 of Law Number 16 Year 2019 concerning Amendment to Law Number 1 of 1974 concerning Marriage (Febriyanti, 2011). Children the results of a different religious marriage are legal according to the law because couples who do interfaith marriages marry in a legitimate manner based on a court decision and are recorded in accordance with the provisions of Article 35 letter a of Law Number 24 of 2013 concerning Amendment to Law Number 23 of 2006 concerning Population Administration.

Based on article 41 letter a of the Marriage Law, marriage does not eliminate the obligation of fathers and mothers to care for and educate their children, if there is a dispute regarding the control of children, the court will give a decision. The theory used in this problem is the Justice Law theory. Child born from interfaith marriages must get justice because the child is a child born from a legal marriage if through a court ruling and recorded in accordance with the provisions of Article 35 letter a of the Population Administration Act. The implementation of interfaith marriages is also supported by the Supreme Court Jurisprudence No. 1400/K/Pdt.P/1986.

Conclusion

Legal Protection of Interfaith Marriage, that is, based on the Marriage Law there is no article that states expressly that Interfaith Marriage is prohibited. Different Religious Marriage was born because of the pluralism of Indonesian people. Every person has the right to form a family and continue the descent through a legal marriage and based on the free will of the prospective husband and wife without coercion from any party, as stated in article 10 paragraph (1) and paragraph (2) of the Human Rights Law. Regarding the recording of interfaith marriages is regulated in article 35 letter a of the Population Administration Act. In his explanation interfaith marriages can be recorded based on the Decision of the Court as long as it does not violate the legal norms and the norms of decency. Implications of interfaith marital divorce to child custody namely child custody of minors falling into the care of their mothers, as long as the mother has never been proven guilty in court and the father shares the costs for the child both for education and for the care needed by the child the. If the father is in fact unable to fulfill these obligations, the Court can determine that the mother will share the costs. Whereas a child who is legally competent can choose between his father or mother as the holder of the right to care.

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Laws and regulations

1. Indonesia, the 1945 Constitution of the Republic of Indonesia
2. Indonesia, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage
3. Indonesia, Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration
4. Indonesia, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection



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THE ISSUANCE OF AN OVERLAPPING CERTIFICATE OF LAND RIGHTS IN INDONESIA

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I Nyoman RENALDI MAHARDIKA

Master of Notary, Postgraduate Warmadewa University
Denpasar, Indonesia
renaldimahardikamkn@gmail.com

I Made SUWITRA

Master of Notary, Postgraduate Warmadewa University
Denpasar, Indonesia
madesuwitra27@gmail.com

I Made PRIA DHARSANA

Master of Notary, Postgraduate Warmadewa University
Denpasar, Indonesia
dharsanaimade@yahoo.co.id

Abstract: *BPN as the agency in charge of land registration has an important role in preventing the existence of overlapping certificates. However, if an overlapping certificate has occurred, BPN can only become a consultant and witness who is asked for information until the overlapping certificate can be issued. The research method used is empirical legal research. The analysis used is descriptive analysis, namely the data that has been collected is processed for the formulation of the research conclusions. Then the research data were analyzed in depth. The results showed that the emergence of multiple certificates was caused by many factors, one of which occurred in Denpasar City and Badung Regency due to irregular data after the expansion of the Regency so that many data were not found, besides that there were several certificates that existed before 1980 and the certificate, which was never transferred to be one of the triggers. Legal protection for ownership of land rights against the emergence of an overlapping certificate is that the owner of the certificate can file a lawsuit due to the existence of the same certificate in the same field and carry out evidence in court for the disputing parties. The authority of BPN is to carry out land administrative activities ranging from land data collection to issuance of certificates. In addition, BPN also has a role as a mediator or witness when an overlapping certificate dispute occurs because BPN only issues 3 certificate after the data is truly valid. BPN will wait for a court decision with permanent legal force (inkrah) to further cancel the issuance of the certificate that is disputed in court.*

Keywords: *BPN, Overlapping certificate, Land Registration.*

Introduction

The implementation of Article 33 Paragraph (3) of the 1945 Constitution is Law No. 5 of 1960 concerning Agrarian Principles (hereinafter abbreviated as UUPA) regulates that the Government holds land registration throughout the territory of Republic of Indonesia which aims to ensure legal certainty over land rights (Santoso, 2005). Article 19 UUPA Paragraph (1) guarantees legal certainty by the government that land registration is held throughout the territory of Republic of Indonesia according to the provisions of

government regulations. The Government Regulation referred to in Article 19 paragraph (1) UUPA is Government Regulation Number 24 of 1997 which began to be promulgated on July 8, 1997 in the State Gazette of the Republic of Indonesia Number 59 of 1997 which regulates land registration. Article 3 of the Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter abbreviated to PP No. 24 of 1997) states the objectives of land registration include:

- To provide legal certainty and protection to holders of rights over a parcel of land and apartment units and other registered matters so that they can easily prove themselves as holders of the rights concerned.
- To provide information to interested parties, including the government, so that they can easily obtain the data needed to carry out legal actions regarding registered land parcels and apartment units.
- To maintain an orderly land administration.

A certificate of land rights as the final result of the land registration process contains physical data (information about the location, boundaries, area of land parcels, as well as the part of the building or building above it if deemed necessary and juridical data (information on the status of the land and buildings listed, holders of land rights and rights of other parties, as well as the burdens on them) (Parlindungan, 2009). The land registration process which results in a certificate of land rights consists of a copy of a land book containing juridical data, then a letter is attached. Measure which contains physical data, then bound together and given a green cover with a picture of an eagle. In land registration, it is also known as the publication system, namely the positive publication system and the negative publication system (Supriadi, 2012). A certificate is a certificate of proof of rights acts as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and data The *yuridis* is in accordance with the data contained in the measuring letter and the relevant land title book. In the event that a land parcel has been issued a certificate legally in the name of a person or legal entity who acquires the land in good faith and actually controls it, then the other party who feels that he has rights to the land can no longer demand the exercise of that right if within 5 years (five) years since the issuance of the certificate, the certificate holder has not submitted an objection to the certificate holder and the Head of the Land Office concerned or has not filed a lawsuit at the Court regarding control of the land or the issuance of the certificate (Permadi, 2016).

Indonesia itself adheres to the negative publication system but with positive elements that follow as outlined in Article 19 of the UUPA implicitly. Proof of certificate of land rights in Indonesia is strong. However, a land certificate can still be canceled based on the provisions of Article 32 PP No. 24 of 1997. This affects the number of disputes that occur due to the use of a negative publication system that has positive aspects in Indonesia. The weakness of implementing a negative publication system with positive aspects of Indonesia can trigger the emergence of overlapping certificates. An overlapping certificate is the issuance of more than one certificate on the same land object. This should not have happened because the issuance of a certificate can only be done by the National Land Agency (BPN) so that before the issuance of a land certificate, it is subject to double-checking the land master book. An overlapping certificate occurs when a plot of land has more than one certificate, there is a complete or partial overlap. Overlapping certificates occur because they are not mapped in land registrations or in maps of local situations. An

overlapping certificate can also be caused by external parties or because it has been published but has been reissued. The birth of an overlapping certificate is inseparable from the actions of the land office officials themselves, such as canceling old certificates and issuing certificates in the names of new people without the knowledge of the names listed (Sutedi, 2012). Overlapping certificates generally occur on land that is still vacant or not yet built. The phenomenon of overlapping certificates is nothing new in Bali.

One example of an overlapping certificate case that occurred in Denpasar City was rice fields that had been registered with a certificate of ownership right number 94/Sumerta Klod Village, East Denpasar District, Badung Level II District (now Denpasar City), Bali Province. 9 November 1983, Temporary Measurement Letter dated 29-9-1983, Number 1082/1983/1984, area 2330 m² in the name of the right holder: AA Ngurah Gde Astawa, SH., Ni Gusti Ayu Putu Oka, AA Sagung Mayun, AA Sagung Kartiningasih, AA Ngurah Mahendra, AA Sagung Ngurah, AA Sagung Putri K., AA Sagung Wife K, AA Ngurah Adhi Kusuma obtained based on the inheritance from the plaintiff's grandfather named Alm Gusti Ngurah Gede Togor through a conversion request on October 11, 1982 and a certificate of inheritance October 13, 1982. However, on July 31, 2007, BPN issued Freehold certificate Number 5640/Desa Sumerta Klod, East Denpasar District, Denpasar City, Bali Province, Surat Ukur dated 27/07/2007 Number 00748/2007, area of 2042 m² in the name of the right holder I Made Sena, SH. This case was won by the defendant by stating the land certificate in the name of the holder of I Made Sena, SH was legal and has permanent legal force in the Class IA Denpasar District Court Decision Number 263/Pdi.G/2016/PN.Dps dated February 21, 2017. Then at the level of appeal at the Denpasar High Court with Decision No: 67/Pdt/2017/PT.Dps dated 24 May 2017 stating that the appeal of the Appellant was rejected. Furthermore, at the cassation level with Civil Cassation Case Decision Number 3322K/PDT/2017 dated January 29, 2018, it states that the land certificate in the name of the holder of I Made Sena, SH remains valid and states the land certificate in the name of the holder of AA Ngurah Gde Astawa, SH., Ni Gusti Ayu Putu Oka, AA Sagung Mayun, AA Sagung Kartiningasih, AA Ngurah Mahendra, AA Sagung Ngurah, AA Sagung Putri K., AA Sagung Wife K, AA Ngurah Adhi Kusuma has changed ownership since the sale and purchase was carried out in front of Notary/PPAT Sri Andayani, SH.

The next overlapping certificate case occurred in Badung Regency. A Freehold Certificate (SHM) No. 1443 in the name of Pura Luhur/Jurit Uluwatu Pecatu which was forged into a double, namely Certificate of Ownership (SHM) No. 3231 covering an area of 38,650 square meters in the name of Pura Luhur/Jurit Uluwatu Pecatu. The certificate entrusted by the reporter Made Subakat with his friends the late Anak Agung Ngurah Gede Agung and I Made Rame at the Notary Office Ni Nyoman Sudjari, SH., MKn Jalan By Pass Ngurah Rai No. 2004 Kuta, Badung without the knowledge of the certificate reporter became a double and then the result of the certificate was sold by AA Ngurah Gde Agung by dragging the name of the former deputy governor of Bali, Drs. I Ketut Sudikerta to PT Marindo Gemilang for the sake of personal gain. In Decision Number 1006/Pid.B/2019/PN.DPS stated that Drs I Ketut Sudikerta was proven to have falsified documents so that an overlapping certificate was issued which was then sold to commit fraud. Drs I Ketut Sudikerta was sentenced to imprisonment for 12 (twelve) years and a fine of Rp. 5,000,000,000, - (Five billion rupiah).

The National Land Agency (BPN), which aims to carry out government tasks in accordance with applicable regulations, focuses on carrying out matters in the Indonesian agrarian and spatial scope as regulated in Presidential Regulation Number 20 of 2015 concerning National Land Agency. However, even though it has been established, there are still many land dispute cases that occur in the community, one of which is the existence of overlapping certificates. In this case, BPN itself cannot guarantee the certainty and legal strength of who is entitled to the object of a land if an overlapping certificate appears. This is because Indonesia adheres to a negative publication system that has a positive element so that as long as someone can prove it is different from a land certificate, the certificate can be sued (Safitri et al., 2020).

BPN will serve as a mediator as stipulated in Article 33 Paragraph (1) of BPN RI Regulation Number 3 of 2011 concerning Management of Assessment and Handling of Land Cases regarding “case titles as referred to in Article 27 Paragraph (1) letter c can be carried out through persuasive, facilitation. Mediation of the parties in the context of dispute resolution. If both parties cannot accept it, they can file a lawsuit at the District Court in the area concerned and the responsibility for proving ownership rights to land certificates must be resolved by both parties to the dispute. In the case of an invalid certificate cancellation, the certificate owner can legally submit it to the State Administrative Court and ask BPN to cancel the certificate's decision that has been issued. The author is of the opinion that BPN should also be involved in handling disputes over the emergence of overlapping certificates until completion because the issuance of overlapping certificates is carried out by BPN itself. Based on the cases that have occurred in Denpasar City and Badung Regency regarding the emergence of multiple certificates and the authority of BPN which can only be a mediator or a body that can cancel one of the decisions regarding land certificates in a dispute regarding the certificate of ownership of land rights while regarding the matter of proving the right to the certificate the land is only done by each disputing party, if one of the parties wants to file an objection against BPN can sue through the State Administrative Court (PTUN) even though before issuing a decision on a BPN certificate must first check the existing data in order to avoid the emergence overlapping certificate. This will trigger problems regarding legal protection and legal certainty for the position of the certificate of land title. Apart from that, the responsibility of BPN is in charge of issuing the certificate itself.

Research method

The research method used in empirical legal research. Empirical legal research is used to examine the main problems related to aspects of the values that live in society. In this case, it is the authority for BPN to check the validation of land objects prior to the issuance of a certificate as proof of ownership of land rights so that errors do not occur in the future. However, based on the facts in the field, especially the city of Denpasar regarding the emergence of 2 certificates in a plot of land, the focus of this research will lead to the accountability of BPN Kota Denpasar and Badung Regency for the existence of overlapping certificates. The types of approaches used are the statutory approach, the sociological approach and the case approach. The data source used is primary data and secondary data. The data collection techniques used were interviews and literature study techniques. The research locations chosen were BPN Denpasar City and BPN Badung

Regency. This research data is processed and analyzed qualitatively, namely the data presented not in the form of numbers but data in the form of descriptions which will be systematically compiled.

Result and discussion

Legal Protection for Ownership of Land Rights Against the Emergence of Overlapping Certificates

Land can be converted into property rights as defined in Article 20 of the Basic Agrarian Law, which states that "Property rights are hereditary, strongest and fullest rights that can be owned by people over land, taking into account the provisions in Article 6" as well as "rights. property can be transferred and transferred to another party ". Property rights are usually owned by a person from generation to generation from his family or obtained from the process of buying and selling land. The land registration process results in a certificate of land rights consisting of a copy of a land book containing juridical data, then a letter of measurement containing the physical data which is bound together and given a cover with a picture of an eagle. In land registration, it is also known as the publication system which is used to test the strength of a certificate, which is strong or not strong and absolute or not absolute. The publication system is divided into a positive publication system and a negative publication system. The positive publication system uses the rights registration system, so it must be a land register or book for storage and presentation of juridical data, while the certificate is a proof of right. Recording a person's name in the register as a right holder makes a person the contiguous land rights holder, not an act of transferring rights. If a country uses a positive publication system, then the certificate that is issued with the power of proof is absolute. The power of proof is absolute as a result of the certificate issued by the state where a lawsuit cannot be filed so that changes to the certificate of land title cannot be made.

In the case of transfer of property rights over land, problems often arise, one of which is an overlapping certificate. Multiple certificates are certificates describing the same plot of land. Thus, one plot of land is described with two or more certificates with different data (Wahid, 2003). Such a thing is also called an Overlapping Certificate, whether all parcels overlap or part of the land overlaps. According to Government Regulation Number 24 of 1997, a certificate is a certificate of proof of rights as referred to in Article 19 paragraph (2) letter c of the UUPA for land rights, management rights, waqf land, ownership rights to apartment units and mortgage rights, each of which has recorded in the relevant land book. If you look at Article 19 paragraph (2) letter c of the UUPA, then the certificate is a proof of right which is valid as strong evidence. The factors that cause an overlapping certificate are as follows (Limbong, 2012):

- The registration map is not yet formed or incomplete.
- Humans.
- The division or expansion of the territory.
- There is incorrect administration in the Ward.
- There is a change in spatial planning by the city government.

Certificate describing the same plot of land. In the event of multiple or overlapping certificates of land, one of them must be canceled. In the case of an overlapping certificate case that occurred in Badung Regency and Denpasar City, based on the results of an

interview with Mr. Kuncoro Hadi Saputra as Head of the Denpasar City National Land Agency (BPN) Administration Subdivision which was held on March 29, 2021 at the Head of Administration of BPN Denpasar. who had previously been assigned to the BPN, Badung Regency, emphasized that the occurrence of overlapping certificates in Denpasar City and Badung Regency usually occurred in the certificates before 1980 and these certificates had never been transferred so they were not recorded in the BPN data when transferring certificate recording data in the Regency. Badung. This happened because of the expansion of the Badung Regency and Denpasar City areas so that a lot of BPN data at that time was irregular so that the emergence of many multiple certificates. Regulation of the Minister of Agrarian Affairs Number 11 of 2016 concerning Settlement of Land Cases states, what is called a land case is a dispute, conflict, or land case to obtain a settlement in accordance with the provisions of the Legislation and/or land policy. In cases of multiple certified land disputes, BPN has the authority to negotiate, mediate, and facilitate the handling of the disputing parties and initiate an agreement between the parties. The factors that cause an overlapping certificate based on the author's analysis are as follows:

1. Registration of Land Rights

The land registration factor can be a major factor in the emergence of a land certificate, because at the time of land registration the BPN will only review the documents that are required for land registration submitted by the applicant. As long as the files submitted by the applicant are complete and meet the requirements, the certificate can be issued. This triggered an overlapping certificate because the BPN did not validate the land issuance.

2. The Irregularity of Data Owned by BPN

The irregular data held by the BPN results in an overlapping certificate. The invalidity of the data held by BPN causes a miss between one data and another, causing multiple certificates, especially certificates that never changed before the 1980s so that BPN does not have valid data from those certificates.

When registering land, what is first registered is the object, the second is the ownership which is attached to the title to the land. Someone who registers their land, usually wants to register their ownership. Apart from registering their ownership, there are also those who only register their land rights. Often ownership and rights to land are considered the same, even though they are two different things. Land rights can be removed for reasons that have been regulated in law or revoked by the Land Office for neglecting the land, while ownership cannot be immediately revoked. The main problem related to the use of this negative publication system is the lack of legal certainty for land owners, because even though they are listed as land owners in the certificate, landowners can still face the possibility of being sued by parties who have an interest in the land. Land registration in Indonesia uses a negative publication system, so that the state does not guarantee the correctness of the data presented, but it does not use a pure negative publication system, but a negative publication system with positive elements.

The strength of the validity of a certificate of land rights is very important at least firstly a certificate provides legal certainty to the land owner whose name is listed on the certificate, secondly, the granting of a certificate can prevent land ownership disputes and finally with ownership of a certificate the land owner can take any legal action as long as it does not conflict with law, public order and morality. Although the use of land title certificates as valid evidence and proof of transfer of rights and legal actions, there is also

evidence besides other land title certificates as additional evidence, for example an actan-register issued by the village government which states the location of the land. (Zaman, 2016).

The use of a certificate of ownership itself for holders of ownership rights is as evidence of legal ownership of land rights, which has been mentioned in Article 19 paragraph (2) of the Basic Agrarian Law, namely a certificate as proof of land rights which has permanent legal force which contains physical data and juridical data. Another use of a property title certificate is to provide legal protection to property rights holders. This legal certainty is related to several meanings that the law is positive, based on the facts and facts it must be formulated in a clear way and the positive law cannot be changed. In its implementation, it cannot be separated from other human actions. In addition to legal certainty, land owners also need legal protection, which means that the state guarantees every citizen who commits legal actions on the basis of property rights. National land law protection of individual rights to land is meant as legal protection through statutory regulations on the legal relationship between individuals and land which results in individual rights to land (Ginting, 2010).

When viewed from the theory of legal certainty, it is the applicable rules and what is desired rather than the law itself as a behavior guide in society, it has not guaranteed certainty about the rule of law. This is due to the inaccuracy of data and several things that have led to the emergence of Overlapping certificates that have lost public confidence in the legal certainty entrusted to BPN as the entity that issues certificates as proof of rights by a citizen. The phenomenon of An overlapping certificate in Decision No. 3322K/PDT/2017 between Anak Agung Ngurah Gde Astawa, SH, et al against I Made Sena, SH et al, in which BPN is a party that is also compared as an example of land disputes in the realm of the general court. One evidence is that there is an overlapping certificate case (overlapping) that was brought to court between the owner of the certificate against the BPN, where BPN Denpasar was represented by I Gusti Ngurah Pariatna Jaya as the Head of the Denpasar Land Office at that time. In practice, settlement of land disputes is not only carried out by BPN but can also be resolved through the General Courts, State Administrative Courts. In the case that the general court focuses more on matters concerning civil and criminal land disputes, it is different with the State Administrative Court which resolves land disputes related to decrees issued by BPN or other regional officials that are directly related to land.

In the case of the issuance of the certificate clearly stipulated in Government Regulation Number 24 of 1997 concerning Land Acquisition in Article 31, it is stated that the certificate is issued for the benefit of the right holder concerned in accordance with the physical data and juridical data that has been registered in the land book. If in the land book there are records relating to juridical data, or records relating to physical data or juridical data, the issuance of the certificate is deferred until the relevant records are deleted. The certificate may only be submitted to the party whose name is listed in the land book concerned as the right holder Or to another party who is authorized by him. Regarding land rights or ownership rights to apartment units belonging to several people or legal entities, a certificate is issued which is given to one of the joint rights holders upon the written appointment of the other joint rights holders (Hermit, 2004: 70). Mean while, with regard to land rights or ownership rights to apartment units belonging together, certificates can be issued as many as the number of joint rights holders to be given to each joint right holder

concerned, which contains the names and the size of each portion of the joint rights. In addition, the form, content, method of filling out and signing the certificate is determined by the Minister.

The concept of legal protection is often interpreted as a form of service that must be carried out by law enforcement officials to provide a sense of security, both physically and mentally to victims and witnesses from threats, disturbances, terror, and violence from any party given to the litigation process and/or non litigation. Legal protection is a protection given to legal subjects in the form of legal instruments, both preventive and repressive in nature, both written and unwritten. So it can be said that in every legal relationship, it certainly creates rights and obligations. Satijipto Raharjo stated that legal protection is to provide protection for human rights (HAM) that are harmed by others and that protection is given to the community so that they can enjoy all the rights provided by law (Raharjo, 2000: 53). Thus, legal protection is a protection provided to legal subjects, namely persons or legal entities in the form of instruments, both preventive and repressive in nature, both oral and written. On the other hand, Simanjuntak defines legal protection as all government effort is to ensure legal certainty to provide protection to its citizens so that their rights as citizens are not violated, and those who violate them will be subject to sanctions in accordance with applicable regulations. Therefore, a protection can be said to be legal protection if it contains the following elements:

- There is protection from the government for its citizens
- Guarantee of legal certainty.
- With regard to the rights of citizens.
- There are penalties for those who violate them.

In Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration contains electronic land registration. Article 84 PP No. 18 of 2021 states that:

- The administration and implementation of land registration can be done electronically.
- The results of the implementation and implementation of electronic land registration as referred to in paragraph (1) shall be in the form of data, electronic information and/or electronic documents.
- Electronic data and information and/or printouts thereof are valid evidence.
- Electronic data and information and/or printouts as referred to in paragraph (3) constitute an extension of valid evidence in accordance with the applicable procedural law in Indonesia.
- The application of electronic land registration is carried out in stages by considering the readiness of the electronic system built by the ministry.

In this regulation, the government provides an effort to prevent the emergence of overlapping certificates because data has been implemented electronically that can be synchronized with each other so that registered land data cannot be registered again because the registration has been recorded. This is according to the author's analysis, this action can minimize the existence of overlapping certificates. Findings in the Supreme Court Cassation Decision No. 3322K/PDT/2017 between Anak Agung Ngurah Gede Astawa, SH, et al and | Made Sena SH, et al which stated that the land acquisition of the defendant | Made Sena SH was based on a sale and purchase with proof of sale and purchase deed No. 148/2012 before the Notary Sri Handayani SH which is strong evidence of the

issuance of a certificate of land rights Number 5640/Desa Sumerta Klod, East Denpasar District, Denpasar City dated July 31, 2007, measuring letter dated 07/27/2007 Number 00748/2007, 2042 m², NIB 22.09.02.09.01043 on behalf of I Made Sena, SH is one proof of legal protection from the government with existing evidence so that the ownership rights to the land are legally protected by the prevailing laws and regulations.

Administrative Accountability Of The Denpasar City And Badung Regency BPN Against The Overlapping Certificate

One of the duties of BPN is to carry out national land registration which is part of the stewardship of land, water, air and other natural resources that are exempt from regional autonomy. In the practice of land sector arrangement which becomes the authority of BPN, it can take the form of controlling the use and control of land through the stipulation of land rights which will lead to the issuance of land certificates. If this authority is handed over to a region without a strong legal basis, who can guarantee that the land certificate issued by the regional office is legal, because until now there has been no regulation regarding the delegation of certificate issuance to regional offices (Rahmi, 2011).

BPN in the case of the issuance of a certificate, according to Mr. Kuncoro's admission from BPN Denpasar, if the data provided regarding the conditions for land registration is valid, BPN will issue the certificate. The process of registering land for the first time is a physical activity to obtain data regarding the location, boundaries, area and buildings thereon, demarcation and giving clear boundary signs, based on the appointment by the land rights holder with the approval of the adjacent land owner. Furthermore, a measurement is carried out followed by a calculation of the area and making a map of the land area which is then issued as a measuring letter. The juridical field activities are aimed at obtaining data regarding the status of land and its owner as well as the presence or absence of rights of other parties, which burdens it necessary for the determination of a decree of its rights either through the stipulation of conversion of recognition of rights or granting of rights. The next activity is land registration based on a decree on its rights by recording it in a land book and then issuing a land title certificate as a copy of the valid land book, as a strong proof of right, the land certificate contains data on the rights holder, type of right and is equipped with a measuring letter containing the location of the boundary. The limit of the land parcel concerned. Provisions regarding the procedure, collection, storage and presentation of physical data and juridical data as well as the issuance of certificates in Government Regulation Number 2 of 1997 concerning Land Registration. The concept of authority consists of three components, namely: influence, legal basis, and legal conformity. The purpose of the influence component is that the use of authority aims to control the behavior of legal subjects. Then the legal basis is defined as the authority that must be based on clear law, while the legal conformity component requires that the authority must have clear standards (for general authority), as well as special standards (for certain types of authority), Furthermore, juridically, authority can be said to be the ability given by statutory regulations to commit acts that have legal consequences.

In terms of authority is a study of the theory of authority, the information that the author obtains from the research is to study and analyze the power of government organs to exercise their authority both in the field of public law and private law, where BPN in this case is a representative of public law which also serves the needs. private someone who wants to defend his rights by making a certificate of ownership. Certificate (land

rights) is a legal product issued by BPN RI which is used as evidence and means of proving the rights of a person or legal entity (private or public) to have rights over a plot of land. Based on the results of an interview with Mr. Heryanto as the Head of Land Law of Badung Regency, it was stated that the emergence of the overlapping certificate phenomenon was not BPN's intention. BPN is only authorized to issue land certificates whose data and conditions for land registration have met the elements stipulated in the statutory regulations.

Legal remedies in land disputes can be carried out in several courts, namely the State Administrative Court, the Civil Public Court, and the General Criminal Court, resulting in several conflicting decisions. The result is that several court decisions have permanent legal force but their contents are contradictory, resulting in non executable decisions. Land dispute resolution can be resolved by means of deliberation by the parties, through general courts and through arbitration and alternatives. Land dispute resolution in this case is pursued through the judiciary. The preventive measures that must be taken by the Land Office of each Land Office must provide a map of land registration, do not wait for the budget from the Central National Land Agency. In terms of dispute resolution in the General Court, it focuses more on civil and criminal matters in land disputes. It is different with the State Administrative Courts which resolve land disputes related to decrees issued by BPN or other regional officials relating to land.

After a court decision is irrelevant or legally binding, it is certain that one of the certificates will be annulled by both parties. BPN will issue a decision to cancel the certificate which has been declared invalid by the court. Article 1 Number 14 Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Cancellation of Rights to State Land and Management Rights provides the meaning of cancellation of land rights as cancellation of the decision to grant a land right or certificate of land rights because the decision contains administrative legal flaws in its issuance or to enforce the court's decision which has been *inkracht*. Apart from administrative reasons, the cancellation of land title certificates can also occur in the event that there are other parties who can prove that a land parcel for which the certificate has been issued is legally and actually his and this is supported by a court ruling that has been *inkracht*. Cancellation of land rights can also occur because of implementing court decisions that have permanent legal force. Decree on the cancellation of land rights according to Article 104 paragraph (2) Permen Agraria/BPN 9/1999, is issued if there are:

- administrative law defects: and/or
- implement court decisions that have permanent legal force.

Based on the provisions of Article 104 paragraph (1) Permen Agraria/BPN 9/1999, the objects of cancellation of land rights include a decree granting land rights, land title certificate, and Decree granting land rights in the framework of land tenure arrangements. The problem of land has spread to complex social problems and requires a solution with a comprehensive approach. Development through the nature and substance of land dispute cases is no longer through administrative law but has spread to political, social, cultural and nationalism issues (Supriadi, 2013: 73). Article 1 Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the Land Agency Number 11 of 2016 Land cases are disputes, conflicts or land cases to obtain settlement handling in accordance with the provisions of laws and regulations and/or land policies and land disputes. Article 54

paragraph (1) and (2) Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of Assessment and Handling of Land Cases Article 54 states that:

- BPN RI is obliged to implement court decisions that have obtained permanent legal force, unless there is a valid reason not to carry it out.
- The valid reasons as referred to in paragraph (1) include:
 - Against the object of the decision, there are other contradictory decisions.
 - the object of the verdict is being put guarantee confiscation
 - C. against the object of the judgment being the object of a lawsuit in other cases,
 - Other reasons stipulated in statutory regulations.

The occurrence of land disputes between two parties, if it can be resolved amicably and the National Land Agency as the mediator, then this kind of settlement can be sure to satisfy both parties. If the settlement must go through legal channels in accordance with applicable provisions, it can be ascertained that the parties require additional fees, especially using the services of a legal advisor, the costs required are sometimes beyond the ability of the service user, while the expected results are not always in his favor. The decision of the Panel of Judges, both the Panel of Judges at the District Court, and the Panel of Judges at the State Administrative Court who have the authority to cancel the decision of a state official in this case cancels one of the certificates of property rights, it is impossible to win both parties, one of them is sure to lose and the losing party feels have already suffered losses, although there are still legal remedies that can be taken, the losers still feel disadvantaged. What if this loss is due to negligence, inaccuracy and/or because the measurement officer does not heed the applicable provisions in the measurement process, this is what needs to be discussed today through the selection of opinions of lecturers who can be held legally responsible, at least as a comparison of the author's opinion below. If the loss of the losing party is caused by negligence, carelessness and/or deliberation on the part of the National Land Agency, then the person responsible morally and materially is the National Land Agency itself. An application for compensation can be submitted by suing through the local District Court (Mulyadi, 2019: 234).

Then Article 7 paragraph (3) Government Regulation Number 24 of 1997 has been followed up by the Government by issuing Government Regulation Number 37 of 1997 concerning PPAT Position Regulations. In addition, 2 (two) laws and regulations relating to the PPAT position were issued, namely: Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 4 of 1999 concerning Provisions for the Implementation of Government Regulation Number 37 of 1997 concerning PPAT Position Regulations. Decree of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 4 of 1999 concerning Stipulation of the PPAT Formation. In Article 1 paragraph (1) Government Regulation Number 24 of 2007, explains the meaning of PPAT (Land Deed Making Official) is a Public Official who is given the authority to make authentic deeds regarding certain legal actions regarding Land Rights or Ownership Rights to Apartment Units. In accordance with Government Regulation Number 37 of 1998, Article 2 (1), PPAT has the main task of carrying out some land registration activities by making deeds as evidence of certain legal actions regarding Land Rights or Ownership Rights to Apartment Units, which will be used as the basis for registration of changes in land registration data resulting from said legal action. In order to guarantee legal certainty in the field of land tenure and ownership, the certainty of the

location and boundary of each plot of land cannot be ignored. From past experience there have been quite a number of land disputes arising as a result of the incorrect location and boundaries of land parcels. Therefore, the problem of measuring and mapping as well as providing large-scale maps for the purposes of conducting land registration is something that should not be ignored and is an important part that needs serious and thorough attention, not only in the context of collecting land tenure data but also in assessing concession data./ownership of land and storage of the data. In the Basic Agrarian Law No. 5/1960, there is never a mention of a land certificate, but as found in Article 19 paragraph (2) letter c, it is stated that "a certificate of proof of rights" is often interpreted as a land certificate.

The National Land Agency always strives for land dispute resolution solutions based on the prevailing laws and regulations by taking into account the sense of justice and respecting the rights and obligations of each party. The steps for resolving disputes that they or the BPN take are deliberation. Likewise in an overlapping certificate dispute, BPN is also authorized to negotiate, mediate and facilitate the disputing parties and initiate an agreement between the parties. BPN regional offices, namely in Provinces and Regencies 1 Municipalities, can only arrive at a decision to resolve the problem, while the follow-up of land administration is still carried out by the Central BPN. Various efforts have been made to prevent the emergence of overlapping certificates in society. BPN as the body that is authorized and responsible for issuing certificates every year is always improving for the better. Mr. Kuncoro as the representative of the Denpasar City BPN stated that currently BPN has a land ownership mapping image so that during registration or analysis before issuing a certificate, it will be checked online and the results will also be more accurate because each has been mapped. Then Mr. Heryanto as the representative of BPN Badung Regency emphasized that currently BPN is launching an online certificate for the entire community. This will certainly make it easier to collect certificate data and minimize the incidence of overlapping certificates.

Conclusion

The phenomenon of the emergence of overlapping certificates is caused by many factors, one of which occurs in Denpasar City and Badung Regency due to irregular data after the expansion of the Regency so that a lot of data is not found, besides that there are several certificates that have existed before 1980 and these certificates are never been diverted to be one of the triggers. Legal protection for ownership of land rights against the emergence of an overlapping certificate is that the owner of the certificate can file a lawsuit due to the existence of the same certificate in the same field and carry out evidence in court for the disputing parties. BPN RI has the authority to carry out land administrative activities ranging from land data collection to issuance of certificates, in addition, BPN also has a role as a mediator or witness when an overlapping certificate dispute occurs because BPN only issues a certificate after the data is truly valid. Previously, BPN would testify to the dispute regarding the reasons for the issuance of the certificate. BPN will wait for a court decision with permanent legal force (*inkrah*) to further cancel the issuance of the certificate that is disputed in court.

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LAW AND PUBLIC PARTICIPATION IN INDONESIA

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Morus Maxine SIANIPAR

Faculty of Law, Brawijaya University,
Malang, Indonesia

Muchamad Ali SAFA'AT

The Faculty of Law, Brawijaya University,
Malang, Indonesia

Tunggul Anshari SETIA NEGARA

The Faculty of Law, Brawijaya University,
Malang, Indonesia

Aan Eko WIDIARTO

The Faculty of Law, Brawijaya University,
Malang, Indonesia

Abstract: *In order to achieve the goal of a welfare state, a law is needed as the legal basis for the state. One of the fundamental laws in democracy is that it is the people themselves who must form laws to achieve common goods. The purpose of this research is the role of community participation in the process of law making in the context of a democratic society. Through normative research will understand the role of public participation in the process of law making in the context of a democratic society. The results showed that The law is a product of general will, so the community as the holder of sovereignty must remain involved in its formation. Legitimate law is the expression of the sovereign will. The law is needed by the state in order to achieve the state's goal, namely to organize a general welfare state for its people.*

Keywords: *Community participation, Law Making, Democratic Society*

Introduction

The modern state in the 19th century was a state with the aim of a welfare state or what was called a material law state. The purpose of the state to organize public welfare requires various regulations to regulate the government's very broad intervention in managing the welfare of the people in the legal, social, political, economic, cultural, environmental, and defense and security fields (Indrati, 2011). To be able to carry out its duties perfectly, the state requires a clear legal basis as the basis for freedom and limits on state movement to organize and maintain public welfare. To quote Rousseau that the social contract has given existence and life to body politics (the state), which requires legislation so that body politics has the ability to coerce and move (Rousseau, 1999). Law is an act of general will which only pays attention to the common interest (public interest). Law is actually a condition of society as an association. People who are subject to the law, must create the law, the association has the right to determine the condition of society. Apeldoorn (2011) said that social life as an orderly society is the embodiment of law, which

is something from the law that is seen from the outside. Law is that society too, and human life itself. Quoting Satjipto Rahardjo's opinion in *Progressive Law* that the law is for humans not the other way around (Rahardjo, 2009), thus citizens as holders of sovereignty must remain involved in the lawmaking. Constitutional Court in Decision No. 91/PUU-XVIII/2020 regarding the formal review of Law No. 11 of 2020 concerning Job Creation, says that community participation must be carried out meaningfully (meaningful participation), not only using formal legal rules in the form of laws and regulations, in order to achieve genuine community/public participation and involvement. Community or popular participation is a reflection of the principle of people's sovereignty as stated in the normative provisions of the 1945 Constitution of the Republic of Indonesia. Habermas interprets the classical principle of popular sovereignty as the reciprocal relationship of administrative power and communication, popular sovereignty as a communication procedure (Hardiman, 2019). Based on the background described above, the problem to be studied can be formulated, namely what is the role of community participation in the process of law making in the context of a democratic society.

Result and Discussion

Law Making

Legislative activity can be characterized as a combination of political and legal practice, where the political aspect has the final say. The final stage of the legislative process is when the House of Representatives (DPR), after deliberation, makes a decision on the bill that is submitted to the DPR, deciding whether to accept or reject the bill. The debates that preceded these decisions, both in official bodies and in the public sphere, were not based on legal arguments but on political arguments (Tuori, 2002). Nonet and Selznick (2001) give three typologies of law in relation to political power, which have different characters. First, a political system with a repressive law character, where the law is subject to political power. The rule of law and judges who apply these laws lawfully and serve strong political interests are personally weakly bound by legal constraints. Second, autonomous law, where the law is independent from politics and curbs political power. This is the idea that underlies most contemporary understandings of the rule of law. In an autonomous legal regime, the courts are institutionally separate from the political sphere, the court decides cases and punishes offenses solely according to official legal rules or precedents, which apply equally to all litigants, rich or poor, politically favored or neglected socially. The government is bound by the rule of law. However, both judges and legislators in autonomous law, fail to address the disadvantages that poorer, less educated, and underrepresented citizens face in negotiating complicated and expensive legal system rules and procedures. According to Marc Galanter, in his empirical literature, he argues that the rich are in front, even though the judges are completely neutral. Third, the tension between substantive justice and autonomous law creates a political system with a responsive legal character. If autonomous law emphasizes legal formalism or legal regularity, responsive law is sensitive to the real losses experienced by the poor and seeks to make everyone equal before the law, either by providing assistance or by adjusting a rule. Nonet and Selznick say law is a facilitator to address social needs and aspirations. Of the three types of law/laws described above, Nonet and Selznick provide a summary of the three characters as follows:

Table 1 Three Types of Law

	Repressive Law	Autonomous Law	Responsive Law
ENDS OF LAW	Order	Legitimation	Competence
Legitimacy	Social defense and raison d'état	Procedural fairness	Substantive justice
Rules	Crude and detailed but only weakly binding on rule makers	Elaborate; held to bind rulers as well as ruled	Subordinated to principle and policy
Reasoning	Ad hoc; expedient and particularistic	Strict adherence to legal authority; vulnerable to formalism and legalism	Purposive; enlargement of cognitive competence
DISCRETION	Pervasive; opportunistic	Confined by rules; narrow delegation	Expanded, but accountable to purpose
Coercion	Extensive; weakly restrained	Controlled by legal restraints	Positive search for alternatives, e.g., incentives, self-sustaining systems of obligations
Morality	Communal morality; legal moralism; "morality of constraint"	Institutional morality; i.e., preoccupied with the integrity of legal process	Civil morality; "morality of cooperation"
Politics	Law subordinated to power politics	Law "independent" of politics; separation of powers	Legal and political aspirations integrated; blending of powers
Expectations Of Obedience	Unconditional; disobedience per se punished as defiance	Legally justified rule departures, e.g., to test validity of statutes or orders	Disobedience assessed in light of substantive harms; perceived as raising issues of legitimacy
Participation	Submissive compliance; criticism as disloyalty	Access limited by established procedures; emergence of legal criticism	Access enlarged by integration of legal and social advocacy

Public participation in lawmaking as described above is closely related to the political configuration, which is generally divided into two contradictory concepts, namely (Mahfud MD, 2014):

1. A democratic political configuration is an arrangement of a political system that opens up opportunities for full public participation to actively participate in determining general choices.
2. An authoritarian political configuration is an arrangement of a political system that favors the state to play a very active role and take almost all initiatives in state policy-making.

In order to qualify as a democratic or authoritarian political configuration, three indicators are used of how the three pillars of democracy work, namely the role of political parties and representative bodies, freedom of the press and the role of the executive. In a democratic political configuration, the output of the formation of laws has a

responsive/populistic legal character, where access to public aspirations is expanded by integrating support from both a legal and social perspective. The process of law-making is participatory, inviting as much community participation as possible through social groups and individuals in society; and aspirational, which contains materials that are generally in accordance with the aspirations or wishes of the community. In an authoritarian political configuration, the legal products are oppressive where they pay little attention to or tend to ignore the interests of the community, or deny the legitimacy of the community. The most obvious form of repression is the uncontrolled use of coercion to enforce orders, suppress deviations, or crush protests. Bullying is also often carried out subtly and indirectly by encouraging and exploiting passive consent (Nonet & Selznick, 2001). In addition, the authoritarian political configuration also produces autonomous legal products, although autonomous law is a source to tame repressive (oppressive) powers through legal order, known as the slogan a government of laws and not of men. The main source of the transition from repressive law to autonomous law is the search for legitimacy. Autonomous law implements the Rule of Law, like AV Dicey's theory, which emphasizes legal formalism or legal regularity. Community participation follows the established procedure, because the procedure is the heart of law. This raises demands for legal legitimacy that pay more attention to substantive justice than procedural justice.

Democracy and Republic

People's sovereignty cannot be separated from democracy, which etymologically comes from the Greek, *demos* (the people) and *kratos* (government), which is a form or method of implementing people's sovereignty. The people can be directly involved in the administration of government, either through representatives or a combination of both. Rousseau (1999) distinguished several types of government based on the number of members. First, if sovereignty entrusts the responsibility of government to the whole people or the majority of the people, so that more citizens can participate in government than just ordinary citizens, this government is called a form of democratic government. Second, if the government is limited to a small number, so that there are more citizens than members of the government, this form of government is called aristocracy. Third, centralizing the entire government in the hands of an official, as a source of power for the other party, which is called a monarchy or royal government. Although there are three general forms of government, they can take as many different forms as the state has citizens. In a government of many people or democracy, it is very important to share power, especially legislative power (law-making) and executive power, because it is not good if the power to make laws and the power to run the law are in the same hands. This according to Rousseau can be dangerous where the public interest can become the interest of the individual.

In contrast to Rousseau, Montesquie (1989) divides government into three basic characteristics, namely republican, monarchy and despotic, where republican government is where the people as a body, or only part of the people, have sovereign power which is called democracy; monarchy is where only one rules, but with fixed and established laws; whereas, in a despotic government, one alone, without law and without order, attracts all things with a will and desire that can change suddenly. The nature of the law will follow the nature of each government and therefore become the first basic law (fundamental laws).

One of the fundamental laws in democracy is that the people themselves must make laws. Legitimate law is the expression of the sovereign's will (Cohen, 2010). In an aristocratic government, where sovereignty is in the hands of some of the people, democracy is in the body of the nobility, and the people (demos) have no meaning. In royal government, the king is the source of political and civil power. A despotic government does not have fundamental laws, where one person feels he is everything, and the other person is nothing, who does not want to be bothered with administrative matters, and leaves general affairs to the prime minister who has the same power as him.

The social contract as the basis of democracy is a political society in which every member of society places his personal interests and power, jointly under the supreme direction of the general will. In *Emile*, as quoted by Joshua Cohen, Rousseau describes the Republic as follows: “Good social institutions are those that best know how to denature man, to take his absolute existence from him in order to give him a relative one and transport the I into the common unity, with the result that each individual believes himself no longer one but part of the unity and no longer feels except within the whole.” Durkheim also said that each individual will vanishes into a common, general will, which is the basis of society.

The word republic comes from the Latin phrase *res publica* which means public business or commonwealth, and refers to the system of government established by Rome in 509 BC which continued to function until the end of the first century, when, though never officially abolished, *de facto* replaced by a semi-hereditary military dictatorship (the Roman imperial system of government) (Fronza, 2015). Republican features feature a separation of powers, an elected judge who wields a lot of power, a strong Senate, and, perhaps most importantly, a weak popular assembly in which the political influence of every citizen is reduced through a complex system of group voting schemes. Madison in *The Federalist Paper*, defines a republic as a government which (a) is essential to obtain all its powers directly or indirectly from a large institution called the people, and (b) is sufficient that the people who run the government are appointed, either directly or indirectly, by the people, and they keep their promises according to the appointed term of office (Hamilton et al., (2009). In a meeting of the Investigative Agency for Preparatory Work for Indonesian Independence (BPUPKI), on July 10, 1945, the discussion on the form of the state experienced a fairly tough debate, choosing between a republican form of state or a monarchy, or other forms. Muhammad Yamin explained that the people's power and the distribution of people's power cannot be arranged in a monarchy, but can only be in the form of a republic. Sukiman further said that the Head of State in principle is not hereditary and must be elected for a certain period of time, which is a republican principle (Sekretariat Negara RI, 1995). Finally in a ballot, fifty-five (55) votes for the republic, six (6) royal votes, two (2) miscellaneous and one (1) blank vote. Article 1 paragraph (1) of the 1945 Constitution stipulates that the State of Indonesia is a unitary state in the form of a republic. This article did not change during the amendment to the 1945 Constitution which was carried out in 1999 – 2002. Sovereignty rests with the people and is implemented according to the Constitution (Article 1 paragraph (1), third amendment, 1945 Constitution of the Republic of Indonesia).

Democracy and republic are two principles that are closely related, as Rousseau (1999) said that the general will form a public person or also called body politics or republic. As a conclusion of the relationship between democracy and the republic, it can

be seen in Robertus Robet's understanding of the republic, which said that a republic is a collective political community organized by a government based on democratic principles, including a system of representation held with an agreement to serve the achievement of shared goals of living together. both under the principle of law and equality (Robert, 2021).
Public Participation

The Indonesian state administration system as regulated in Article 1 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) is implemented based on three principles, namely *res publica*, democracy and legality. *Res publica* or republic and democracy as explained earlier is a government of many people for the common good. Democracy, which is the basis of a republic or body politics, is framed in a state of law where its implementation is based on the prevailing laws and regulations.

Common goods in democracy and republic can be understood in four basic concepts, as follows (Cohen, 2010):

- 1) **Distributive/Aggregative.** Common goods must be understood in terms of the common interests of community members, and the need for attention to the interests of each member, carried out by giving equal consideration to each member.
- 2) **Equality/Common Good.** The social contract establishes among citizens an equality so that all citizens commit under the same conditions and all should enjoy the same rights. This commitment is the main guide in further collective decision making. The idea of the common good or also called the common interest is the basis for understanding the general will that individuals who are ready to impose on others the conditions they desire, are ready to live in those conditions and are thus committed to advancing the common good.
- 3) **Content of the Interests: Self-Development and Independence.** Regarding the content of interests are the interests of individuals who make up the common good, Rousseau limits the reach of common interests to the interests of personal security and protection of resources, namely the interests he expresses that provide the basis for social contracts. Thus, the aim of political associations is the preservation and prosperity of their members. The protection of individual/personal independence comes from limiting behavior based on law, and the law is justified by referring to the common good. Restrictions that do not have a common good justification, these regulations cannot be accepted as a representation of contributions to the common good. These regulations are arbitrary and are not permitted, because they are not supported by reasons that are consistent with the common good.
- 4) **Baselines for the Common Good.** Rousseau supports a substantive understanding of general will which by its nature is directed to the common good which is interpreted not as an aggregate. Rousseau did not think that citizens need to be protected from the general will, because the general will is always right and always tends to the common good. The supreme governing role of the general will would advance their respective basic interests, taking the abstract condition of equality as the baseline.

The meaning of participation according to the Black's Law Dictionary is the act of taking part in something, such as a partnership, a crime, or a trial (Garner, 2009). Public participation is the act of the community/public in a state administration activity, one of which is the law-making. Law is an act of general will, legitimate law is the expression of the sovereign will. Cohen (2015) cites Demosthenes' opinion that behind the law stands *demos*, and that it is only through *demos*' commitment to the rule of law that sovereignty has meaning. Although the people through general elections have elected their

representatives to sit in the People's Representative Council (DPR), according to Locke, the legislative power, which must be supreme in any government framework, is only a fiduciary power to act for certain purposes or certain ends, the supreme power is still within the people to abolish or change the legislature, when they find legislative action to be contrary to the trust placed in them (Locke, 1988). Community participation as regulated in Article 96 of Law no. 12 of 2011 concerning the Establishment of Legislations can be done through (a) public hearings, (b) working visits, (c) socialization, (d) seminars, workshops, and/or discussions. What is meant by the community in this case are individuals or groups of people who have an interest in the substance of the draft legislation. Maria Farida said the people whom are "vulnerable" to the regulation (Farida, 2011). Draft laws and regulations must be easily obtained by the public, so that the public can easily provide input verbally and/or in writing.

Meaningful participation opens up opportunities for full public participation to actively participate in determining general choices through communicative participation as stated by Habermas in the discourse theory of communication. The communication discourse that is built is openly intersubjective, reflective in nature, which demands rational and argumentative reasons. This deliberative communication basically has a strong constitutional foundation in the Unitary State of the Republic of Indonesia. Substantively, deliberative democracy is contained in the fourth principle of Pancasila (the philosophical basis of the state): "People who are led by wisdom in deliberation/representation". Thus, the community will accept legitimate laws rationally through the discourse process of forming opinions and wills. The lack of public participation in the law-making process has the potential to produce laws with a repressive character such as Law no. 19 of 1969 concerning the Structure and Position of the People's Consultative Assembly (MPR), the DPR and the Regional People's Representative Council (DPRD), a legal product during the New Order era, a despotic government. Article 10 of Law no. 19 of 1969 regulates the formation of the DPR which is not entirely based on the general election mechanism which is directly elected by the people, but is partially appointed by the President. Of the total members of the DPR as many as four hundred and sixty (460) people, three hundred and sixty (360) people are elected through general elections and one hundred (100) people are appointed. The members of the DPR who are appointed are the Working Group of the Armed Forces and the Working Group not the Armed Forces. This is possible because the 1945 Constitution does not explicitly (*expressive verbis*) regulate the formation of the DPR through general elections. Also influenced by the authorities' interpretation of the provisions of Article 2 paragraph (1) of the 1945 Constitution which stipulates that the membership of the MPR consists of members of the DPR plus delegates from regions and groups. Groups may include Armed Forces, as stated in TAP MPRS No. XXII/MPRS/1966 recognizes the term "classification that exists in society", must be interpreted to include Armed Forces. With the presence of Armed Forces members in the DPR, it can be imagined the dead of the people's voice if there are objections on the proposed Bills. So that the students' term emerged at that time for the DPR as "Rubber Stamps" or "Rubber Stamp Institutions" on the political wishes and desires of the government or the executive (Marbun, 1992). Cohen (2015) said Athenians were reluctant to entrust the legal domain to any institution that did not represent the people themselves.

In the Reformation era, with the spirit of democratic governance, in the third amendment to the 1945 Constitution, Article 22E of the 1945 Constitution of the Republic

of Indonesia explicitly stated that general elections were held to elect members of the DPR. This provision was followed up with the issuance of Law no. 22 of 2003 concerning the Position Structure of the MPR, DPR, Regional Representatives Council (DPD) and DPRD (MD3), in Article 16 that the DPR consists of members of political parties participating in the general election who are elected based on the general election results. All members of the DPR, totaling five hundred and fifty (550) people, are the result of general elections, no members are appointed as regulated in previous Law no. 19 of 1969. It can be said that Law no. 22 of 2003 is a responsive legal product that respond to the aspirations of the people. Community participation which only looks on the legal-formal perspective can produce autonomous legal products. Quoting Luc J. Wintgen, "As a necessary condition for a norm's existence, the legality of a norm at the same time involves its legitimacy. A norm is legitimate if and only if it satisfies the conditions for legality of the legal system to which it belongs". A law is legitimate if it meets the requirements of the legality of the legal system in which the norm is located. The mechanism for community participation was carried out in accordance with the provisions of Article 96 of Law no. 12 of 2011. The DPR and the Government have held various public hearings, working visits, socialization, seminars, workshops, and discussions with various stakeholders, as happened with Law no. 11 of 2020 concerning Job Creation. The people's objections on the Bill, which was mutually agreed by the DPR and the Government, were answered by the DPR and the Government with "welcoming people who object on the Job Creation Law to submit a judicial review to the Constitutional Court" (Shalihah & Akbar, 2020). The Constitutional Court in Decision No. 91/PUU-XVIII/2020 states that the formation of Law no. 11 of 2020 concerning Job Creation is contrary to the 1945 Constitution of the Republic of Indonesia and has no conditionally binding legal force. Below are presented several laws which were jointly approved by the DPR and the President, met the requirements of legality and legitimacy, but were declared unconstitutional by the Constitutional Court and, therefore, have no legal binding.

Table 2 Laws Agreed by DPR and President but Declared Not Having Binding Legal Force by Constitutional Court

Law	Constitutional Court Decision
No. 20 of 2002 on Electricity	No. 001-021-022/PUU-I/2003, on material and formal review
No. 9 of 2009 on Educational Legal Entity	No. 11-14-21-126-136/PUU-VII/2009, on material review
No. 7 of 2004 on Water Resources	No. 85/PUU-XI/2013, on material review
No. 17 of 2012 on Cooperative	No. 28/PUU-XI/2013, on material review
No. 11 of 2020 on Job Creation	No. 91/PUU-XVIII/2020, on formal review

According to Muchammad Ali Safa'at, there were four violations of the constitution at the time of the undemocratic law formation. First, it violates the principle of popular sovereignty because it negates the role of the owner of the highest power in the formation of legal products that will become the basis for administering the state and determining the fate of citizens. Second, denying the position of the law as the main legal product that must be formed democratically. Third, denying the existence of the legislators themselves, the

DPR and the President, as democratic institutions that must always listen, pay attention to, and consider the aspirations of the people they represent. Fourth, allowing the formation of laws solely as an arena of struggle and domination of power that sacrifices justice for the protection of citizens' rights (Safa'at, 2020).

Conclusion

The law is a product of general will, so the community as the holder of sovereignty must remain involved in its formation. Legitimate law is the expression of the sovereign will. The law is needed by the state in order to achieve the state's goal, namely to organize a general welfare state for its people. Philippe Nonet and Philip Selznick provide three typologies of law, namely laws that are oppressive, laws that are autonomous and laws that are responsive. Community participation is a reflection of the principle of people's sovereignty as stated in the normative provisions of the 1945 Constitution of the Republic of Indonesia. Habermas interprets the classical principle of popular sovereignty as the reciprocal relationship of administrative power and communication, people's sovereignty as a communication procedure. Meaningful community participation is deliberative communicative participation that has a strong constitutional foundation in the Unitary State of the Republic of Indonesia, namely in the fourth precept of Pancasila: "People who are led by wisdom in deliberation/representation". Thus, the community accepts legitimate laws rationally through a discussion process so that it gives birth to laws that are responsive.

As the normative provisions in Article 1 of the 1945 Constitution of the Republic of Indonesia, which provides the basis for the Indonesian state administration system based on the principles of *res publica*, democracy and legality, public participation in the formation of laws has a very important role. The basis of the republic is democracy, the government of the people through representatives to achieve common goods or common interest. The regulation and implementation of community participation is not only legal-formal, but the people are really involved and communicative, which among other being able to easily access any proposed Bills, and to be able to provide input orally or in writing. The proposed Bills are hardly found on the website of the DPR of the Republic of Indonesia.

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URGENCY OF REGULATING LEGAL PROTECTION FOR FOREST AND LAND FIRE VICTIMS IN THE FORM RESTITUTION BASED ON SOCIAL JUSTICE PRINCIPLE IN INDONESIA

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Agus SUYANDI RONI

Doctoral Student at The Faculty of Law, Brawijaya University,
Malang, Indonesia
agus.suyandi.roni128@gmail.com

Iwan PERMADI

The Faculty of Law, Brawijaya University,
Malang, Indonesia

Abstract: *A good and healthy environment is a human and constitutional right for every Indonesian citizen (UUD NRI 1945). However, increasingly complex environmental problems continue to threaten human rights, such as cases of forest and land fires. The community is the most disadvantaged party due to the forest and land fires, ranging from environmental damage, health problems, delays in the learning process in schools, and other activities that have an impact on economic losses. In this case, the community cannot apply for restitution. The legal problem is that there is a void in norms governing the restitution process for victims affected by environmental crimes in general, including victims of forest and land fires. Therefore, it is necessary to examine the urgency of regulating legal protection for the victims, so that the position of victims of environmental crimes of forest and land fires is the same as victims of other crimes such as victims of violence, victims of terrorism, and victims of other acts of violence which regulated in Law Number 31 of 2014 concerning Amendments to Law number 13 of 2006 concerning the Protection of Witnesses and Victims. This study aims to examine the urgency of regulating legal protection in the form of restitution for forest and land fires victims. This research is normative legal research. The results of this study conclude that the urgency of regulating legal protection for victims affected by forest and land fires must be carried out. The restitution is given by considering the number of losses suffered by the affected victims.*

Keywords: *legal protection, victims of forest and land fires, restitution, social justice*

Introduction

Environmental issues have become an indicator of the strengthening of democratic practices in a country with the argument that the protection and fulfillment of environmental rights is part of citizens' participation in formulating democratic policies. The 1945 Constitution of the Republic of Indonesia (hereinafter written as the 1945 Constitution of the Republic of Indonesia) states that a good and healthy environment is a human right and a constitutional right for every Indonesian citizen. Article 28 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that: *"Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and have the right to obtain health services."*

Therefore, the state, government, and all stakeholders are obliged to protect and manage the environment in the implementation of sustainable development, so that the

Indonesian environment can remain a source and life support for the Indonesian people and other living creatures. The change in the paradigm of development and the environment in the 1945 Constitution of the Republic of Indonesia and other laws and regulations is a phenomenon of the adjustment of universal values that continues to develop national development and the environment. With competition in the era of increasingly rapid globalization, the role of environmental law is increasingly inevitable, to ensure legal certainty. The position, role, and function of environmental law are very important in the administration of the State and Government. Law 32 of 2009 is a law that specifically regulates the protection and management of the environment.

The act of burning forests, gardens, and land intentionally for any purpose is prohibited by law. There are three rules that forbid residents from burning land, namely: Law Number 41 of 1999 concerning Forestry as promulgated in the State Gazette of the Republic of Indonesia of 1999 Number 167, an additional State Gazette of the Republic of Indonesia Number 3888 (hereinafter written the Forestry Law), Law Number 39 of 2014 concerning Plantations as promulgated in the State Gazette of the Republic of Indonesia of 2014 Number 308 Supplement to the State Gazette of the Republic of Indonesia Number 5613 (hereinafter written Plantation Law), as well as Law Number 32 of 2009 concerning Environmental Protection and Management. It is currently known that forest fires and land in the number of areas of Indonesia are expanding. Based on data from the National Disaster Management Agency (BNPB), the area of forest and land fires in Indonesia in the January-August 2019 period reached 328,724 hectares. Riau Province is the largest area experiencing forest fires, reaching 49,266 hectares, followed by Central Kalimantan with an area of 44,769 hectares. The fire also created thick smog. Even Malaysia and Singapore claim to receive shipments of haze from Indonesia. According to the Ministry of Environment and Forestry (KLHK) data records that the area of forest and land fires from January to September 2019 was 857,756 ha, with details of mineral land 630,451 ha and peatland 227,304 ha. Central Kalimantan has the burned areas about 134,227 ha, West Kalimantan 127,462 ha, South Kalimantan 113,454 ha, Riau 75,871 ha, South Sumatra 52,716 ha, and Jambi 39,638 ha. Data on forest and land fires in 2019 reached 857,756 hectares, consisting of 630,451 hectares of mineral land and 227,304 hectares of peatland. The forest and land fires that occurred in 2019 were the 3rd largest fires, whereas previous fires also occurred in 1997 and 2015. Data from KLHK states that the government has won a civil lawsuit over the case of forest and land fires that occurred in 2019 with total compensation of Rp. 315 trillion. "The total comes from 9 (nine) *inkracht* lawsuits which were granted by the Supreme Court (MA) from 17 civil lawsuits related to forest and land fires that were filed by the Directorate General of Law and Human Rights of the Ministry of Environment and Forestry to the court. According to Rusmadya Maharuddin: forest and land fires occur due to lack of supervision and law enforcement as instruments that can be used to create a deterrent effect. Law enforcement is also part of efforts to prevent the recurrence of these fires. The government is still weak in terms of supervision and law enforcement related to forest and land fires that occurred recently. Rusmadya also said that the legal process in the case of forest and land fires that have been carried out has 11 companies that have signed (*inkracht*) which have been fined Rp. 18.9 trillion, but there is no realization, whether it has been fulfilled or not [1].

The perpetrators of forest and land burning so far have not been prosecuted decisively, and it seems that only a few are followed up in court. In general, dispute

resolution is normative, i.e. the settlement method is applied to laws and regulations, where the most frequent sanctions are administrative sanctions for companies that burn forests. The question is whether administrative sanctions can solve problems for victims affected by forest and land fires such as acute respiratory infections (ARI), the impact on the community's economy, reduced work efficiency both in offices and schools, disruption of transportation, immaterial and material losses. the affected victims, even causing transboundary haze pollution to neighboring countries such as Singapore, Malaysia, and Brunei. Several research results on law enforcement in cases of forest and land fires conclude that existing legal instruments in Indonesia have not been able to overcome this problem [2]. Hamilton (2019) in his dissertation explores the application of pollution offenses in New South Wales, Australia as part of some prosecution (and by extension, a comparable jurisdiction). His Analysis of the verdicts on land and environmental pollution violations, from interviews with communities involved in prosecuting these violations, reveals that the prosecutions reached a conceptualization of binary justice; namely justice as a procedure and justice as a result [3] . Susanto and Suro (2021) state that it is necessary to enforce environmental laws in an integrated manner to inhibit the rate of pollution and environmental destruction [4]. Enforcement of environmental law is closely related to the ability of the apparatus and citizens' compliance with laws and regulations. By the court's decision in this study, it is suspected that environmental law enforcement officers have not made much progress and have not understood the environmental law enforcement system that should be carried out in an integrated manner. Buys and Lewis (2021) stated that there is a need for other appropriate legal mechanisms for individuals and communities to advocate for their environmental rights and obtain appropriate remedies when their human rights are affected by environmental degradation [5]. Tuhule also concluded from the results of his research that there are confusing loopholes in law enforcement regulations in cases of forest and land burning [6].

The results of Erdiansyah research conclude that there is a reluctance of criminal courts to impose criminal liability on corporations, due to the un-simplicity of legal instruments and laws regulations [7]. There are three legal remedies related to forest and land fires: (1) administrative sanctions which are the authority of the central government, namely the Ministry of Environment and Forestry, (2) civil sanctions, and (3) criminal sanctions. Article 84 of Law no. 32 of 2009 concerning Environmental Protection and Management states: (1) Settlement of environmental disputes can be reached through the courts or outside the courts. (2) The choice of settlement of environmental disputes is carried out voluntarily by the disputing parties. (3) A lawsuit through the court can only be taken if the efforts to resolve the dispute outside the chosen court are declared unsuccessful by one of the parties to the dispute [7].

The incompleteness of legal protection norms in the settlement of forest and land fire cases to protect the rights of the affected community based on the principles of social justice causes the compensation process for victims to be unable to be fought properly. The impact of forest and land fires is not only on the environment but also on society, both on health and the economy. So far forest and land fires victims have not received attention, especially regarding compensation that is appropriate for the affected community. Therefore, it is also necessary to review from the side of compensation resulting from forest and land fires on the rights of the community to be able to live in a good and healthy environment. On the other hand, in cases of crime victims, compensation for victims is

regulated according to Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Sanctions and Victims as promulgated in the State Gazette of the Republic of Indonesia of 2014 Number 293 In addition to the State Gazette of the Republic of Indonesia Number 5602 (hereinafter written Law 31 of 2014), there is the term restitution, namely compensation given to the victim or her family by the perpetrator or a third party (Article 1 Number 11).

Payment of compensation charged to the perpetrator based on a court decision with the permanent legal force for material and/or immaterial losses suffered by the victim or his heirs (Article 1 point 1 PP 43 of 2017). Based on the description above, the writer is interested in studying the urgency of legal protection in the form of restitution for forest and land fires victims as the criminal justice system in Indonesia based on the principles of social justice. This is so that the applicable law can truly protect the community. Substantially, legal products in the form of laws and regulations can be said to have good quality if they can accommodate and protect the interests of the entire community.

Method

This research is normative legal research. Normative legal research is research that puts law as a building system of norms or dogmatic law research or doctrinal research. The system of norms in question is about principles, norms, rules of statutory regulations, court decisions, agreements, and doctrines (teachings). Normative legal research was chosen by the author because there is a norm gap in the settlement arrangements for victims affected by forest and land fires in Indonesia. The approach used to discuss the problems in this research is the statutory approach, the conceptual approach (analytical and conceptual approach), and the case approach, using inductive reasoning to analyze problems that occur in general and then analyze the problems. to find answers that are specific and find the truth objectively. Legal research methods emphasize secondary data by studying and reviewing legal principles or principles both in positive legal rules, cases, and provisions of national legislation and those relating to the subject matter under study, namely regarding legal protection to victims affected by forest and land fires based on the principles of social justice. There are 3 sources of legal materials, namely: Primary legal materials (primary resources or authoritative records). The 1945 Constitution of the Republic of Indonesia, Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, the Criminal Code Law Number 32 of 2009 concerning Protection and Management Environment, and Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. Secondary Legal Materials (secondary resource or not authoritative records), and Tertiary Legal Materials such as dictionaries, encyclopedias, internet, and so on.

The method of collecting legal materials is through Literature Studies, by studying legal materials, exploring principles, norms, rules from laws and regulations, court decisions, agreements, and doctrines (teachings). The method of analysis of all legal materials that have been collected, both primary legal materials, secondary legal materials, and tertiary legal materials are analyzed descriptively, using inductive logic. The legal material is described to obtain a systematic explanation. The description is carried out to determine the content or meaning of the legal material according to the theme of this research problem. From the legal materials that have been collected, both those obtained

from the results of library research and cases that occurred in the field, a qualitative descriptive analysis is then carried out, namely an analysis that describes the actual situation regarding certain facts.

Result and Discussion

One of the functions of law is to provide protection where the law is grown and needed by humans precisely based on the product of human research to create conditions that protect and promote human dignity and to enable humans to live a normal life in their dignity. Montesquieu, in his view of the state, states that the best state is a state of law because in the constitutions of many countries there are three cores, which are as follows: Protection of human rights; Stipulation of state administration of a country; and Limiting the power and authority of the people of the state. According to R. La Porta et al (2000) in the *Journal of Financial Economics*, the form of legal protection provided by a country has two properties, namely prevention (prohibited) and punishment (sanction) [8]. The most obvious form of legal protection is the existence of law enforcement institutions such as courts, prosecutors, police, and other non-litigation dispute resolution institutions. In line with the understanding of law according to Soedjono Dirdjosisworo which states that the law has various meanings in society and one of the most obvious of the notions of law is the existence of law enforcement institutions. Law enforcement in the form of legal protection, for example in economic activities, especially investment, cannot be separated from the legal aspects of the company, especially regarding limited liability companies because legal protection in investment involves several business actors, including investors, directors, commissioners, permit givers and power holders. as well as parties supporting the occurrence of investment activities such as officials making authentic deeds, namely Notaries, where the parties are dominated by legal subjects in the form of legal entities in the form of limited liability companies [9].

Related to the theory of legal protection, there are several experts had explained this discussion, including Fitzgerald, Satjipto Raharjo, Philipus M Hadjon, and Lily Rasyidi. Fitzgerald quotes the term legal protection theory from Salmond that the law aims to integrate and coordinate various interests in society because, in the traffic of interests, protection of certain interests can be done by limiting various interests on the other hand [10]. The interest of the law is to take care of human rights and interests so that the law has the highest authority to determine human interests that are deemed necessary to be regulated and protected. Legal protection must look at the stages, namely legal protection is born from a legal provision and all legal regulations provided by the community which an agreement by the community to regulate behavioral relations between community members and between individuals and the government which is considered to represent the interests of the community[10]. According to Satjipto Rahardjo, legal protection is to protect human rights (hereinafter referred to as human rights) that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law [11]. Phillipus M. Hadjon stated that legal protection for the people is preventive and responsive government action. Preventive legal protection aims to prevent disputes from occurring, which directs government actions to be careful in making decisions based on discretion and responsive protection aims to prevent disputes from occurring, including their handling in the judiciary [12]. Meanwhile, according to Lili Rasjidi and I.B Wysa

Putra that the law can be functioned to realize protection that is not only adaptive and flexible but also predictive and anticipatory [13]. From the descriptions of the experts above, it provides an understanding that legal protection is a description of the workings of the legal function to realize legal goals, namely justice, benefit, and certainty.

The results of Abdurrachmana et al. study concluded that there are three main obstacles in enforcing environmental law in Indonesia: the inability to deal with corporations that have strong political support, overlapping authorities in the process of investigating criminal acts, and the difficulties faced by law enforcement officers in dealing with criminal acts. looking for evidence. Based on this study, a model of legal protection for victims of pollution and/or environmental destruction is proposed using the principles of restorative justice. In this model, the judge can represent the facilitator from the state for the initial stage. The value of this model is that rather than simply pursuing punishment for the perpetrator, it is better to shift the focus towards compensating victims by perpetrators [14]. Legal protection is a protection given to legal subjects, individuals, or legal entities by the rule of law, both preventive and repressive, both written and unwritten in the context of enforcing legal regulations. Legal protection is to protect human rights that have been harmed by others and this protection is given to the community so that they can enjoy all the rights granted by law or by law enforcement officials to provide a sense of security, both mentally and physically from disturbances and various threats from any party. In international environmental law, several major international environmental law conventions and declarations have included environmental rights in their articles and principles. The inclusion of environmental rights or elements in environmental rights is not done with homogeneous words or language.

In general, global and regional environmental treaties since 1991 contain at least a reference to public information access to remedies. Basically in the convention or declaration, it contains principles on environmental rights, especially regarding public participation in environmental management, even some treaties contain substantive rights for certain environmental qualities, but there are also conventions such as the Lugano Convention, which focuses on repairing environmental damage. In searching for the relationship between environmental rights and various international agreements, the researcher uses several keywords which are the core of environmental rights. Some of the keywords used include the following: human rights that protect the minimum biological requirements for humans to survive; the right to eat, drink, and shelter; individual and group participation; providing and guaranteeing access to information to public; establishment of institutions that have the authority. There are several experts who explain this discussion, including Fitzgerald, Satjipto Raharjo, Philipus M Hadjon, and Lily Rasyidi. Fitzgerald quotes the term legal protection theory from Salmond that the law aims to integrate and coordinate various interests in society because the traffic of interests, protection of certain interests can be done by limiting various interests on the other hand. The interest of the law is to take care of human rights and interests so that the law has the highest authority to determine human interests that are deemed necessary to be regulated and protected.

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community. According to Satjipto Rahardjo, legal protection is to protect human rights (hereinafter referred to as human rights) that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law [11]. Abdurrachmana et al. (2021), the results of his study concluded that there are three main obstacles in enforcing environmental law in Indonesia: the inability to deal with corporations that have strong political support, overlapping authorities in the process of investigating criminal acts, and the difficulties faced by law enforcement officers in dealing with criminal acts. Looking for evidence. Based on this study, a model of legal protection for victims of pollution and/or environmental destruction is proposed using the principles of restorative justice. In this model, the judge can represent the facilitator from the state for the initial stage. The value of this model is that rather than simply pursuing punishment for the perpetrator, it is better to shift the focus towards compensating victims by perpetrators [14].

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Legal protection is to protect human rights that have been harmed by others. This protection is given to the community so that they can enjoy all the rights granted by the law. Legal protection is a variety of legal remedies that must be provided by law enforcement officials to provide a sense of security, both mentally and physically from interference and various threats from any party. Legal protection is an action or effort to protect the community from arbitrary actions by authorities that are not the rule of law, to create order and peace to enable humans to enjoy their dignity as human beings. Satjipto Raharjo stated that legal protection is protecting human rights that have been harmed by others, and this protection is given to the community so that they can enjoy all the rights granted by the law [11]. According to Philipus M. Hadjon, legal protection is the protection of dignity and worth, as well as the recognition of human rights owned by legal subjects based on the provisions of arbitrariness [12].

Law enforcement is part of the legal system that cannot be separated from legal substance and legal culture. Based on Lawrence Friedman's legal theory which explains that the ideal legal system is a good correlation between substance, structure, and culture [15]. Looking at the realm of application of criminal law enforcement against perpetrators of forest and land burning, not all cases of forest and land burning are followed up to the

realm of the court, but there is also a cessation of case investigations. Ninety percent (90%) of cases of forest and land burning carried out by individuals (communities) are more dominant in legal action until the court's domain and in contrast to cases of forest and land burning by corporations, only 2 (two) corporations have arrived in court and have a fixed sentence, while the others are subject to termination of the investigation.

The process of handling law enforcement against perpetrators of forest and land burning starts from the stages of investigation by the police, prosecution by prosecutors, and court decisions by judges. All these processes are carried out in handling this case. At the investigation stage in the case of handling forest and land fires, PPNS (civil servant officers) from the environmental and forestry services and police investigators are carried out. Article 94 of Law Number 32 of 2009 concerning Environmental Protection and Management: "In addition to investigators from the Indonesian state police, certain civil servants within government agencies whose scope of duties and responsibilities are in the field of environmental protection and management are authorized as an investigator as referred to in the criminal procedural law to investigate environmental crimes. The investigation process is a series of actions by investigators in terms of and according to the method regulated by law to seek and collect evidence with which evidence makes clear about the criminal act that occurred to find the suspect.

By tackling environmental violations and preventing their excesses, it is clear that legal efforts are needed that are carried out professionally by the Police, Civil Servants, Prosecutors, and Judges who obtain environmental certification. It is also important to strengthen the education and training system as well as certification assessment to develop an environmentally oriented mindset of law enforcement. These practices are considered practical implications for resolving environmental violations under environmental criminal law. The further solution is establishment of law enforcement officers for environmental violations under legal institutions. This institution is thus integrated under the spirit of the One-Stop Enforcement System model from which environmental problems can be solved. This integrated model is important to expand the space for citizen justice so that justice can be managed properly in the context of good environmental enforcement under the principles of good environmental governance (S. Wijoyo and W. Prihatiningtyas, 2016) [16].

Disruption of daily activities, the presence of smoke disturbances automatically also interferes with daily human activities. For example, in the morning some people cannot carry out their activities because of the difficulty of sunlight penetrating the air filled with smoke. Likewise, many activities require humans to be outside the room. The presence of smoke disturbance will reduce the intensity of his being outside the room. The thickness of the smoke also forces people to use masks, which can increase the cost and interfere with the daily activities of the community. Disruption of health. From a health point of view, the biomass smoke emitted by forest fires contains various hazardous components. This component consists of gases and particles. Gas components that have a major role in disturbing health are carbon monoxide and aldehydes. In addition, the detrimental effects of ozone, nitrogen oxides, carbon dioxide, and hydrocarbons were recorded. In forest fires, various types of substances can fly away, and in this transportation are converted into Nitrate Species and organic Oxygen [2].

The first impact of forest fires on human health is that they can cause eye and skin irritation. Eye and skin irritation may occur when exposed to smoke directly. Forest fire

smoke, causes itching, watery eyes, inflammation, and infection. Another impact of forest fires is that they can worsen asthma and other chronic lung diseases such as chronic bronchitis, COPD, and so on. The smoke from forest fires will be inhaled into the lungs so that the lung's ability is reduced causing fatigue and difficulty in breathing. Haze from forest fires can cause local irritation to the mucous membranes in the nose, mouth, and throat which are directly exposed to forest fire smoke, and cause allergic reactions, inflammation, and possibly infection, ranging from Pollutants in forest fire smoke that fall to the earth's surface may also be a source of pollutants in clean water and unprotected food. The loss of several community livelihoods in and around the forest.

Some people who have been depending on forest products for their lives are unable to carry out their activities. The smoke generated from the fire more or less interfered with his activities which automatically also affected his income. After the fire was over, it was confirmed that the community had lost some areas where they used to make forest products such as rattan, rubber, and others. Another problem that arises after the occurrence of forest and land fires is the increase in the number of pests. Many species are said to be pests if their presence and activities interfere with the production process carried out by humans. The absence of rules regarding restitution will certainly make it difficult for victims of forest and land fire crimes who will apply for compensation. First, the victim does not know for sure the damages that can be claimed. Second, the victim does not know when the request for compensation is submitted: can the victim directly submit the request for compensation to the LPSK immediately after the crime has occurred, or before the public prosecutor submits a criminal charge, or before the judge makes a decision? Third, the victims do not know the mechanism that can be taken if the perpetrator of the crime of forest and land fires is unable or unwilling to pay the compensation requested by the victims. The four victims also do not know the period of payment of compensation from the perpetrator of the crime to him since the judge's decision requiring the perpetrator to pay compensation to the victim has permanent legal force.

The urgency of the norm of regulating legal protection for victims affected by forest and land fires must be carried out to provide compensation as a form of responsibility from the perpetrators to urge it to be promulgated based on the principles of social justice. The compensation is given by considering the number of losses suffered by the affected victims. This compensation is a form of civil liability, the perpetrators of criminal acts can also be given criminal responsibility in the form of criminal sanctions and fines, as well as administrative responsibility in the form of administrative sanctions and revocation of the business license granted.

Conclusion

The results of this study conclude that the urgency of regulating legal protection for victims affected by forest and land fires must be carried out to provide restitution. This is the form of responsibility from the perpetrators of forest and land burning. The restitution is given by considering the number of losses suffered by the affected victims. This compensation is the form of civil liability, and the perpetrators of criminal acts can also be given criminal responsibility in the form of criminal sanctions and fines, as well as administrative responsibility in the form of administrative sanctions and revocation of their business licenses.

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INTEGRATION MODEL OF ENVIRONMENTAL DISPUTE SETTLEMENT OUTSIDE THE COURT BETWEEN LOCAL COMMUNITIES AND CORPORATIONS

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Erwin SYAHRUDDIN

Faculty of Law,
Brawijaya University, Malang, East Java, Indonesia
erwinsyahrudin332@gmail.com

Moh.FADLI

Faculty of Law, Brawijaya University, Malang,
East Java, Indonesia

Rachmad SAFA'AT

Faculty of Law, Brawijaya University, Malang,
East Java, Indonesia

ISTISLAM

Faculty of Law, Brawijaya University, Malang,
East Java, Indonesia

Abstract: *Alternative Dispute Resolution (APS) is a concept of dispute resolution in various countries whose implementation is separate between mediation, negotiation, conciliation, consultation, expert opinion, and arbitration. The application of APS type separation makes the settlement mechanism not optimal because each type has its own uniqueness. Whereas the current trend shows the increasing use of various alternative dispute resolution outside the court. For this reason, in the Alternative for Environmental Dispute Resolution (APSL) there must be an effective model that can be applied. The type of research used is normative.*

Keyword: *Environment Disputes Resolution, Hybrid System, Sosiology Perspective*

Introduction

Countries in the world have started paying attention to environmental management since 1972. In that year, the Indonesian government welcomed the First World Environment Conference which was held in Stockholm, Sweden in June 1972, but in June 1972, At that time, the Indonesian government did not know a special institution that handled environmental problems. Whereas the current trend shows the increasing use of various alternative dispute resolutions outside the court such as arbitration, mediation, consultation, conciliation, and expert judgment. Research from Queen Mary University in London shows 93% of respondents have a preference for resolving disputes through arbitration and alternative dispute resolution (ADR). (Mary, 2018). Settlement of disputes through non-litigation has been known as ADR (Wiryawan, 2010). Management of the environment and natural resources tends to be directed towards investment interests and is always understood as economic sense and not understood as ecological and sustainable

sense. Therefore, environmental sustainability was then raised as an issue that environmental sustainability and the availability of natural resources are human rights. Awareness of the relationship between human rights and the environment is triggered by the high rate of global environmental destruction caused by the rapid industrial growth in the forestry, marine, energy, and mining sectors. This destruction in turn makes it impossible to enjoy or fulfill human rights, which are not only limited to economic, social and cultural rights, but also include civil and political rights (Kasim, 2004). Alternative Dispute Resolution (ADR) is a concept of dispute resolution in various countries whose implementation is separate between mediation, negotiation, conciliation, consultation, expert opinion, and arbitration. The application of ADR type separation makes the settlement mechanism not optimal because each type has its own uniqueness. Currently, it is seen that alternative solutions to environmental disputes outside the court are increasingly being looked at. For this reason, in the Alternative for Environmental Dispute Resolution (AEDR) there must be an effective model that can be applied.

Legal materials and method

The type of research in this study is normative with the nature of the research in this study is explorative. The approach used in this study uses the

Results and discussion

ADR (Alternative Dispute Resolution) concept approach as a way to resolve disputes which has long been known in various beliefs and cultures. Various facts have shown that basically mediation, conciliation, and negotiation are not foreign methods in an effort to resolve disputes in the community. It's just that the context of the approach and method is different from the local legal culture. The definition of Legal Culture is: "People's attitudes toward law and the legal system-their beliefs, values, ideas and expectations. In other words, it is that part of the general culture which concerns the legal system". Like traditional Chinese people consciously, they accept moral bonds more because of the influence of social sanctions than because they are forced by law (Sutiyoso, 2008). Alternative Dispute Resolution is a dispute resolution institution or difference of opinion through a procedure agreed upon by the parties, namely an out-of-court settlement by means of consultation, negotiation, mediation, conciliation, or expert judgment. Settlement of disputes in civil cases can be done through litigation (the term used for those who use judicial institutions), and non-litigation (the term used for those who use institutions outside the court), can be carried out if the litigating parties agree to choose one or the other. one such institution. So the choice is not an act of chance but as human behavior related to the law. As stated by A. De Wild, that the law is a form of human behavior that can be observed (Munir, 1997).

An alternative theory of dispute resolution was proposed and developed by Ralf Dahrendorf in 1958. The theory of dispute resolution is oriented towards social structures and institutions. Ralf Dahrendorf argues that society has two faces in terms of dispute and consensus (H. Salim HS., 2013). Therefore, Ralf argues that sociological theory should be divided into two parts, dispute theory and consensus theory. Dispute theory analyzes conflicts of interest and the use of force that binds society together in the face of such

pressures. Meanwhile, consensus theory examines the value of integration in society (H. Salim HS., 2013). Richard L. Abel, defines a dispute (dispute) as, "Public statements regarding inconsistent claims for something of value (H. Salim HS., 2013)." Furthermore, it can be added regarding the definition of dispute, namely, "Conflicts, disputes and disputes that occur between one party and another and/or between one party and various parties related to something of value, whether in the form of money or objects." In this definition, a dispute is constructed as a dispute/contradictory between the disputing parties consisting of two parties or more than two parties. For example, those who have a dispute between A and B, C, D. A are the plaintiffs, while B, C, D are the opposing parties (defendants). Based on this description, it can be formulated the definition of dispute resolution theory.

Therefore, in responding to the practice of environmental disputes that are oriented towards achieving a common understanding or consensus which is the inherent goal of environmentally sound and sustainable development (communicative action), it is very necessary to reconstruct the concept of practical ratios into the concept of communicative ratios through alternative environmental dispute resolutions. Habermas believes that actions between humans in a society do not occur arbitrarily, but are rational. The rational nature of the action in Habermas's view is instructive. It assumes that the participants in communication are oriented towards achieving understanding with each other. Understanding can also be interpreted as agreement or consensus. The communicative ratio guides communicative actions to reach mutual agreement in the form of consensus about something. This consensus does not just happen. The main prerequisite for consensus is mutual understanding and borrowing of perspectives. One party must try to understand the other person's problem or try to play the role of the other in order to know the problems faced by the other person so that consensus is reached to resolve a dispute.

Habermas' theory of communicative action rests on the idea that social order ultimately depends on the capacity of actors to recognize the intersubjective validity or validity of the various claims on which social cooperation is based. Thus, cooperation through communicative action is obtained by claiming validity that can be justified through communication, including by criticizing. The speaker in Habermas' communicative act performs a speech act that is oriented towards mutual understanding by submitting a validity claim, and assuming that the validity claim will be accepted by the listener. Good communication requires listeners to understand and accept speech acts. The listener approves or affirms the speaker's statement. If the speech act is accepted, what is called an actor relationship arises which creates social relations. According to Habermas, the world can be divided into three. First, the subjective world (part of the internal world) which is based on the feelings, beliefs, desires, experiences, and intentions of the actors. Second, the shared social world formed by norms, actor relationships, institutions, and where the actors place themselves (part of the outside world). Third, the objective world, namely the objective objects and circumstances (part of the external world). Habermas argues that a speaker who performs the act of speaking at the same time must create claims of validity, truthfulness, sincerity, and understanding by the hearer of the speech act to be successful. According to Habermas' view, philosophy must have relations and cooperation with other disciplines such as social science and empirical science in general. The link between philosophy and empirical science is presented in his book "Theory of Communicative Action". Habermas' critical reconstruction of the problem of rationality takes its roots from

the critical theory of the critique of instrumental ratio (Dennis A. de Vera, 2014). The Samin community based on the critical movement tries to find justice in the midst of political currents that fully support development. They voiced their protest against the cement project in the forest environment, where they depend on farming for their livelihood. They feel that they understand very well the environment that they depend on and that the landscape of the environment cannot be changed because it will definitely disturb not only the forest ecosystem but also the agricultural ecosystem built by local residents. Those who are always silent and never interfere in government politics are immediately opposed if the environmental aspect which is very potential for human survival is disturbed and even wants to be damaged on the grounds of development for the welfare of the people around and hearing about job opportunities. However, they don't need work, they just need to live sustainably and side by side with nature because it's the only nature they depend on. If the nature is no longer there because it is occupied by a company that utilizes the surrounding land, both from the land where they live and where they live. It doesn't stop there, the natural resources that serve as water reserves and a place to support the earth, namely limestone mountains, will also not be separated from human exploitation in industrial activities.

For this reason, in responding to the practice of environmental disputes that are oriented towards achieving a common understanding or consensus which is the inherent goal of environmentally sound and sustainable development (communicative action), it is very necessary to reconstruct the practical ratio model into a communicative ratio model through alternative environmental dispute resolution. Habermas believes that actions between humans in a society do not occur arbitrarily, but are rational. The rational nature of the action in Habermas's view is instructive. It assumes that the participants in communication are oriented towards achieving understanding with each other. Understanding can also be interpreted as agreement or consensus. The communicative ratio guides communicative actions to reach mutual agreement in the form of consensus about something. This consensus does not just happen. The main prerequisite for consensus is mutual understanding and borrowing of perspectives. One party must try to understand the other person's problem or try to play the role of the other in order to know the problems faced by the other person so that consensus is reached to resolve a dispute.

Alternative Dispute Resolution (ADR) or Alternative Dispute Resolution arises from a movement over the motive of the high costs of litigation resulting in high economic costs, prolonged psychological fatigue, plus insurance costs, and wasted time spent on litigation. In the 80s, President Bush Senior criticized lawyers for not being sensitive to "access to justice". Developing the access to justice model is to answer criticism of the judicial process or litigation whose results are increasingly moving away from the community's sense of justice. Mauro Cappelletti and Bryant Garth are the main initiators of access to justice placing mediation which is an alternative form of dispute resolution as the third wave of access to justice. However, in practice there are also weaknesses in the model and practice, for example, in contrast to judges or arbitrators, the mediator does not have the authority to decide disputes between the parties, the mediator supports the parties in reaching an agreement where the parties themselves determine the agreement between them. , a third party who is neutral and tends to be passive in offering a solution to a solution, the mediator only acts as a mediator in a dispute. In addition to mediation, other alternative dispute resolution (arbitration, conciliation, negotiation, etc.) also have several

shortcomings that cannot be denied. From these shortcomings, it is necessary to formulate an ideal alternative dispute resolution model that can adapt to the needs of justice seekers. Habermas' theory of communicative action rests on the idea that social order ultimately depends on the capacity of actors to recognize the intersubjective validity or validity of the various claims on which social cooperation is based. Thus, cooperation through communicative action is obtained by claiming validity that can be justified through communication, including by criticizing. The theory of communicative action relies on justification, namely the theory of argumentation or discourse. Therefore, discourse by Habermas is called a "reflective form" of communicative action. An outcome in discourse, both consensual and non-consensual, is rational only if in the process there is no visible exclusion, suppression of argument, manipulation, self-deception, and the like (Rehg, 2017). A neutral observer can judge whether the interlocutor has complied with institutional procedures, while the participants involved must assess how well they have met the dialectical prerequisites by rigorous critical testing. The truth condition of a proposition is the potential agreement of all. Thus the pragmatic universal meaning of truth is determined by the demand to reach a rational consensus (Rehg, 2017).

Habermas divides three forms of argumentation, namely argumentation as a product, argumentation as a procedure, and argumentation as a process, or all three can be harmonized as: 1) logic; 2) dialectic; and 3) rhetoric. At the logical level, the parties consider the argument as a product, namely a number of reasons that support the conclusion. From this perspective, the disputants aim to build a "convincing argument" from the intrinsic nature of the argument and by which claims of validity can be determined. The logical strength of such an argument depends on how well one has considered all relevant information to avoid possible objections from the opposing party. Logical judgment presupposes the dialectical adequacy of argumentative procedures. The product of argument-making practice is logically strong only if at the dialectical level, arguments and counter-arguments have been given in a rigorous critical discussion (Habermas, 1984).

Habermas calls these conditions a "ritual competition for the better argument." The participants in the dialectic must be able to state the problems they face, respond to relevant objections, fulfill the burden of proof proposed, and so on. Therefore, in the mediation process, the mediator must establish dialogical communication between the parties, provide equal opportunities for the parties to raise their problems and demands, and listen to both parties in a balanced manner. If necessary, the mediator can clarify a party's statement or request supporting evidence from that statement. Critical examination of the parties' statements in turn depends on the rhetorical quality of the persuasive process. The rhetorical perspective is intended to design arguments to place the audience in the appropriate socio-psychological space to make responsible collective judgments. The rhetorical aspect is suitable for open mediation such as public mediation. In public mediation, interested parties can be present, although they do not have to be speakers. The parties directly involved in this kind of mediation must not only be able to convince the opposing party, but also be able to convince the audience present, who are also interested parties.

This prerequisite basically requires all parties to assess all relevant information and arguments as rationally as possible, and consider arguments based only on merit in achieving an impartial truth. One of the challenges to implementing Habermas' theory on

mediation is the requirement to involve all affected parties to participate so that the discourse is inclusive. In reality, it is impossible for all affected parties to participate in a mediation process, especially in public mediation, such as in agrarian or land cases. The solution is to involve only representatives of the disputing parties. Representatives position themselves as all affected parties, and decisions must be made with the consideration of all affected parties even if they do not participate in the discussion.

The speaker in Habermas' communicative act performs a speech act that is oriented towards mutual understanding by submitting a validity claim, and assuming that the validity claim will be accepted by the listener. Good communication requires listeners to understand and accept speech acts. The listener approves or affirms the speaker's statement. If the speech act is accepted, what is called an actor relationship arises which creates social relations. According to Habermas, the world can be divided into three (G. Goldkuhl, 1999). First, the subjective world (part of the internal world) which is based on the feelings, beliefs, desires, experiences, and intentions of the actors. Second, the shared social world formed by norms, actor relationships, institutions, and where the actors place themselves (part of the outside world). Third, the objective world, namely the objective objects and circumstances (part of the external world). Habermas argues that a speaker who performs the act of speaking at the same time must create claims of validity, truthfulness, and understanding by the hearer of the speech act to be successful (G. Goldkuhl, 1999). Harry C. Bredemeier states that law can be used as an integrator, and a means to facilitate social integration. This theory is a development of Talcott Parsons' theory of social systems, which says that social systems break down into sub-systems (Rahardjo, 1977). Talcott Parsons with a structural-functional theory that begins with four important functions of the action system, namely adaptation, goal attainment, integration, and latency (Ritzer, 1996). This theory is known as cybernetics theory. The theory of cybernetics was first coined by Talcott Parsons, where in his theory Parsons assumes that society is a system consisting of parts (sub-sub) that are interrelated and influence each other reciprocally. Parson's view that society is a functionally integrated system in the form of equilibrium. Although social integration can never be achieved perfectly, in principle the social system always tends to move towards dynamic harmony. More specifically, this theory states that in a society there are various kinds of sub-systems, where between one subsystem and other subsystems are interrelated and influence each other. The sub-systems referred to include sub-systems, among others, cultural sub-systems, social sub-systems, political sub-systems and economic sub-systems, or popularly known as AGIL (Tittenbrun, 2014).

This theory will be used in building alternative models of environmental solutions. What is needed in action theory is an active, not passive adaptation. This theory demands an active environmental transformation against stagnation, to realize human values. Human efforts produce a complex balance between the factors that hinder and facilitate evolutionary change (Beilharz, 2005). Talcott Parsons' Cybernetic Theory which puts forward a theory about society that is comprehensive by starting with the actions of individuals with all their broad interrelationships in society. According to Talcott Parsons (Soemitro, 1989) individual behavior is not a biological behavior, but as behavior that has a sociological meaning. Individual behavior can always be given a place in a certain social relationship, which means that behavior is a structured action. Talcott Parson in his systems theory suggests that this broad social system consists of sub-systems of individual actions in the fields of culture, social, personality and behavioral organisms. Human actions in this

society are limited by two basic environments, each of which is physical, namely the physical-organic environment and the ideal which is called the ultimate reality environment. Between the two basic environments there is a subsystem which is a hierarchical unit, namely the cultural subsystem with the function of maintaining patterns; social subsystem with integration function; the political sub-system with the function of pursuing goals and the economic sub-system with the function of adapting without overriding the main priority of the environment as a dependent element.

The chart above is a modification of Talcott Parson's cybernetics theory which describes the cybernetic relationship between sub-systems in society that takes place through the process of information flow from subsystems with high information levels to subsystems with low information. On the other hand, flows from sub-systems with low information levels also occur, which in this case is conditioned by subsystems with higher energy levels. Within the framework of these sub-systems, law can enter into cultural sub-systems and can enter into social sub-systems. As a cultural sub-system, law maintains patterns, cultural values which are guidelines for individual behavior. As a social, economic and cultural sub-system, law functions to integrate, regulate individual activities in meeting their needs and prevent conflicts and other things that interfere with the smooth running of social interactions and community productivity. While the act of communication is an adaptation function that is carried out in response to community conflicts that cannot maintain their lives in the midst of environmental changes.

Law as a result of human reason essentially contains various ethical and moral values needed by a dynamic society. So dynamic law is always able to provide a way out in the event of a legal conflict or continuing uncertainty. Dynamic law can always provide a way out and a solution if there are disputes and disputes, especially to the needs of the community regarding values. The environmental aspect in this chart is placed as the center of the hypocenter in maintaining the existing system. While the alternative for the existing dispute resolution is a dispute control system to make a legal agreement (consensus). So, the law receives input from the economic, political and cultural fields to analyze its impact and then it is formulated in communication actions in the form of the best alternative dispute options (prismatic) and in the end it becomes output to be returned to the community as a form of responsive social justice. . Habermas' communication action is access to representation of alternative prismatic dispute resolution. This communication action can be transformed into a legal institution such as BANI (Indonesian National Arbitration Board), or emphasize alternative practices of adaptive dispute resolution (pseudo dispute resolution) which in principle will be a means of integration that can be accepted, recognized and utilized and provide the best win-win solution in the community. This APSP model also relies heavily on Habermas' theory of communicative action which rests on the idea that social order ultimately depends on the capacities of actors. This prerequisite basically requires all parties to be involved in inclusive discourse from the government, the private sector, NGOs, experts and the affected community. Based on Habermas' theory, the Prismatic Environmental Solution Alternative Integration Model (Cybernetic Theory Modification) cannot stand alone but requires support from the determining actors in dispute resolution, namely the parties involved in the process of realizing social justice. The following is a picture of the APP implementation model in which there are determining factors in realizing a fair decision:

From Figure 2 it can be explained that the APSP actors consist of, Affected Communities, NGOs, Entrepreneurs/Proponents, Consultants and Government. Conflict conditions can be explained by Donald Black's morphological theory to determine the dynamics of the relationship between conflicts. Morphological analysis will be able to assist in seeking conflict resolution. According to Donald Black, "Morphology is the horizontal aspect, or the distribution of people in relation to each other, including their division of labor, integration, and intimacy" (Black, 1976). Morphology is the horizontal aspect of social life, dividing people's relationships from one another, including the division of labor, interaction, intimacy, unity. It varies across settings of every kind, whether society, community, neighborhood, or organization, public place, marriage or close friends (Black, 1976). Variable morphology explains many patterns / forms of social life. For example, forms of social evolution, such as the family, the growth of government, the diversity of cultural life. Differentiation also explains aspects of stratification, religion, violence, and organization. Morphology also describes the quantity and force of laws. The strategy of explaining the application to the evolution of law in the judiciary. And it is possible to explain law and the continuity of law itself in relation to the center of social life (Black, 1976).

Conclusion

The conclusion from this morphological discussion is that it causes differentiation varies across groups. Differentiation within each group horizontally among humans. Differentiation of various kinds, from society to organization, family, friends. This includes differences between people in the business world and differences in places. Organizational actors are the corporate aspects, or capacities of collective action. The more organizations, the more organized the community groups are than without organizations. In this study, Donald Black concluded, organization is a social aspect that can be counted. Then stated that law varies directly with organization, meaning that people in groups always win over individuals before the law (an organization bringing a lawsuit against another is more likely to win than an individual bringing a lawsuit against another individual). At the same time, the legal direction in organizational behavior is "Law is greater in a direction toward less organization than toward more organization". The impact of this statement indicates that the organization/group is more likely to bring a lawsuit against an individual. In a direction toward less organization, law varies directly with organizational distance. But, In a direction toward more organization, law varies inversely with organization. In order for the local community to get a balanced bargaining position and a balanced position of power against companies or the upper class as stated in the Black Legal Behavior Theory, they must group together and synergize. From the actors of the affected community groups, NGOs, entrepreneurs/initiators, consultants and the government, all of them are mutually configured with one another and centered on the mediator as the hypocenter of the dispute resolution process management discourse. Then the mediator corresponds with the actors involved.

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ON EFFICIENCY, BARGAINING POWER AND INFORMATION ASYMMETRY. A LEGAL AND ECONOMIC ANALYSIS OF ALTERNATIVE LEGAL METHODS OF CREDITOR PROTECTION FOR *IN BONIS* COMPANIES IN ROMANIA AND ENGLAND

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Ioan ȘUMANDEA-SIMIONESCU

Center for Business Law & Information Technology, Babeș-Bolyai University

Cluj-Napoca, Cluj

ioan.sumandea@law.ubbcluj.ro

Abstract: *This study offers a comparative and economic analysis of Romanian and English creditor protection methods concerning in bonis companies. The focus of the analysis is on the rules of alternative or self-help rules as well as an exploration of the theory of appearance (error communis facit ius) and estoppel from a Romanian and English perspective, to determine what is the functionality and efficiency of these methods, including law and economics considerations. Thus, we are conducting both a comparative analysis of a continental and common law system as well as an economic analysis of law. We consider efficiency problems in regard to the underlining market failure of informational asymmetry in creditor protection scenarios. We concluded with the ways in which these alternative creditor protection methods are structured and can help remedy the problems faced in the bargaining process in the creditor-debtor paradigm, offering a new perspective on the dynamics of a form of creditor protection which has not been thoroughly considered.*

Keywords: *creditor protection, efficiency, information asymmetry, bargaining power, estoppel, theory of appearance.*

Introduction

This study offers a comparative and economic analysis of Romanian and English creditor protection methods concerning *in bonis* companies. Romania is a country that has a great potential to attract new investments by creating a flexible creditor protection system. The best example is the United Kingdom, which is considered a paradise for flexible creditor protection mechanisms. Analysing the measures of protection of the creditors of *in bonis* companies, it can be considered that there are three pillars in which they can be grouped. On the one hand we have strict rules imposed by the rules on share capital which present a standard method of protection (Bachner, 2009). At the other end of the spectrum are the so-called *self-help* methods, through which creditors can impose their own methods of protection. In this pillar we have the functionality of mandatory disclosure as well as the economic contractual clauses as a means of protection of creditors. Between the standard method and the method of complete deregulation, we have a third pillar, that of the restrictions imposed on the management bodies of the company, the shareholders, and directors. These vary in approach from strict rules, such as those on activating the unlimited liability of shareholders or those on directors' restrictions on share capital, to a more flexible approach, as in the case of fiduciary obligations of administrators. A somewhat novel element of the analysis is the comparison of the theory of appearance and

the British estoppel as a means of protecting creditors. These two elements do not actually fall into any of the pillars mentioned above but largely compensate for the shortcomings of the above pillars, with the aim of protecting the bona fide creditor.

This paper will focus on the analysis of the rules on alternative or *self-help* rules mentioned above as well as an exploration of the theory of appearance (*error communis facit ius*) and estoppel from a Romanian and English perspective, in an attempt to establish exactly what is the functionality and efficiency of these methods, including law and economics considerations. The analysis of self-help creditor protection and the underlining dynamics has been less analysed than the other pillar of creditor protection. Our aim is to offer new insights into a more flexible system of creditor protection, drawing from the comparative analysis of a continental (French-inspired) and common law system. Attention will also be paid to contractual clauses as a possible element of self-help protection for creditors.

Contractual negotiation - between effective means of protection and opportunism

Before beginning an analysis of the methods of protection of creditors regulated by law, we considered it necessary to analyse the economic contractual clauses as a mechanism for the protection of creditors. It should be emphasized that this subchapter does not aim at an analysis of the types of existing contractual clauses but rather at an analysis of them, generally approached, as an effective means of protecting creditors. This fact is all the more relevant from the perspective of the emergence of the notion of self-help which involves allowing the creditor to create his own "armour" based on bargaining power. This method is correlated with the mandatory disclosures, mentioned briefly before, because only based on an adequate information could we considered that efficient contractual clauses for creditor protection can be issued. Although not widely discussed in doctrine, this method is gaining momentum at European level. This is all the truer in the United Kingdom and the United States since those systems are based on deregulation and maximum flexibility in business transactions (Andreson, 2012).

Contractual clauses are methods of protecting creditors against the various forms of opportunism that debtors can achieve (Hall, 2008): diluting the mass of assets from which the debt can be recovered, underinvesting, and substituting assets. From an economic perspective, all these problems arise due to the fundamental conflict between creditor and debtor. Based on this mechanism, if the debtor makes a profit, the creditor satisfies his claim, and the debtor keeps the surplus (Mulbert, 2006). In case of non-performance, based on the contract, the debtor recovers his claim from the debtor's assets, of course, if there is no one with a higher rank or a privilege attached to the asset. So, any capital fluctuation towards the debtor favours the creditor and any capital fluctuation from the debtor favors the debtor who no longer must gratify the creditor. It should be noted, however, that the issue of capital redistribution (or economic distributional concerns in general) is not the only real problem with this paradigm. If this were the case, it would be possible to introduce contractual clauses blocking these *ex ante* redistributions. However, the problem is more complicated, because the opportunistic behaviour of the creditor could lead to the blocking of any capital flow in the company, either due to reaching an insolvency threshold, or due to the approach of more risky projects or the inability to

complete. a viable financing project (Mulbert, 2006). From an *ex ante* perspective, a joint effort is needed between creditors and debtors.

Contractual clauses could be the solution, limiting the actions that the debtor can take. However, it is almost impossible to create a contract that covers any risk and may not even be indicated because it could indirectly block a director to carry out an action that would be beneficial for each party to the contract. This is frequently discussed in the incomplete contract framework in law and economics literature (Schmidt, 2006). This can be avoided by negotiating and renegotiating the contract when needed. Thus, it must be understood that a company needs flexibility in dealing with certain transactions that can bring surplus profit to itself and therefore to the creditor. From this perspective, it is necessary to have renegotiation clauses that allow to reach a real dialogue between creditor and debtor and therefore to improve the situation of the company (Anderson, 2012).

However, in the real world, negotiations are imperfect. Firstly, there is an information asymmetry between the creditor and the debtor. If the debtor is better informed than the creditor about an investment project, it is hard to believe that the debtor will reach a consensus with the reluctant creditor (Trung Tran, 2020). Secondly, if there are several creditors, it is difficult to reach a consensus between them, as the baseline is the tendency of creditors to take advantage of the clauses inserted in the contracts of other creditors as a means of protection ("free riding"). Moreover, it is accepted that a creditor with a small debt (Anyangah, 2017) will not be willing to accept the new investment, being satisfied to maintain the state of the company at a level that allows it to satisfy the debt.

If these problems refer to the *ex post* scenario, some drawbacks can be identified with this *ex ante*. First, the creditor who had the greater bargaining power will keep part of gains for renegotiation. However, he may not want to diminish his bargaining position, so he will not be interested in new investment projects or other common development plans of the company *ex post*. Conversely, if renegotiation is aimed at avoiding the loss of debt at the time of insolvency and he believes that renegotiation can bring him greater profit, he will be more willing to initiate this procedure more so than to work for a relaunch of the company (Jenson, 1976).

Considering the above, some conclusions can be drawn regarding the methods in which creditors could turn contractual economic clauses into functional protection mechanisms. It is possible to act on the lack of information of the creditors. Another option would be to rethink the collective action of creditors in the renegotiation process. Mitigating the needs of all creditors is difficult to achieve. It was suggested that a formal renegotiation meeting be set up, which would not require the unanimous agreement of the creditors on a new project but only a (super-) majority (Cho, 2014). However, this option may not be the best, though applicable. A clear example of this (in the insolvency scenario) is the super-majority and reorganization voting requirements which have yielded mixed efficiency result. However, in a unanimity system, each creditor has a pivotal role, so it encourages everyone's involvement in the project and discourages "free-riding" which can lead to the passivity of creditors to the detriment of the company. Moreover, the majority could be used by a group of creditors to suppress the rights of other creditors. So, any departure from the rule of unanimity must be well thought out and considered *ex ante* (Armour, 2006).

The disagreement could also be resolved if there was a creditors' representative to negotiate on their behalf. Of course, it would require that its decisions be accepted

unanimously by creditors, but it would eliminate conflicts between them by creating a single voice. A more radical solution is to tackle the problem by creating sensitivity thresholds through contractual frameworks. If the debtor pays his debts, he keeps his company but if not, the creditor automatically takes control of his assets. Or the clauses inserted in the contract for the protection of the creditor could block the debtor through further diminishing his assets. A more sophisticated system could be designed, based on cash flow, where if the company is functional, a series of more flexible contractual clauses are activated, but if cash flow decreases, another stricter set of conventions comes into play. In this way, creditors are constantly protected, but debtors can also operate effectively. Obviously, real protection through contractual clauses can be achieved for voluntary (active) creditors. In the case of others, especially involuntary ones, this mechanism is not very useful. However, they could be protected by the protection provided by the restrictions imposed by the contractual clauses of stronger adaptive (voluntary) creditors (a form of efficient *free riding*) (Andreson, 2012).

As we have seen, insofar as it has the necessary bargaining power, creditors may end up blocking the company's activity through contractual terms or influencing it to the detriment of other creditors (Siems, 2011). For this method of creditor protection to be viable, a limitation of this power is needed to the scope in which creditor bargaining can pervert the control the creditors have over the actual company (Duracinska, 2017). Such a limitation was created by the English system by the notion of shadow director (CA, 2006, art. 170.5), whereby a third party to a company which by its action, contractual or otherwise, influences its activity can be considered the shadow administrator, in fact its, thus responding like any director. Although it is quite difficult to meet the standard of influence and interference imposed, this method does counterbalance the excessive power of stronger creditors (Mikaloniene, 2019) to the detriment of weaker creditors, thus streamlining the contractual framework to ensure both fairness and efficiency (Granato, 2017). However, the common law legal framework in the United Kingdom states that the influence which the creditor has over the company, transforming it into a *de facto director*, does not mean that all the director duties imposed by law apply to it. In this way, the English courts (*Ultraframe (UK) Ltd. v Fielding* [2005] EWHC 1638 (Ch)) could decide what debts to impose on the creditor, adapting it to the situation and giving flexibility to the mechanism.

This flexible checks and balance system could easily be extended into the Romanian framework, offering a proper checks and balance framework for efficient creditor protection. However, further efficiency concerns should be addressed in regard to the ability of courts to properly assess the level of liability of the shadow director as well as the uncertainty created by the flexible framework. While these concerns might be properly mitigated in a system of legal precedent as that of the English system (Deakin, 2017), this becomes more difficult to adjust for in a continental system like Romania.

Theory of Appearance versus Estoppel – a comparative and economic analysis

The idea of appearance as a means to producing legal effects, i.e., the theory of appearance under the French tradition or *error communis facit ius*, can be defined as the legal theory that consists in recognizing the legal effectiveness of acts that do not fully comply with the strictly legal conditions and which, for this reason, should be null and

void. in good faith and with increased caution. Thus, for those situations that appear, under all external conditions, as true situations are given legal effect and enforcement (Dogaru, 2002). In civil law, in some cases, appearance has legal effects. It is justified by common error or in order to compensate for disclosure needs (*error communis facit ius*). Given the dynamics of interpersonal relations, law must find the means and tools necessary to streamline legal relations between legal subjects. Absolute legal certainty is indeed a primary goal, but a balance must be struck between static security, which protects the interests of shareholders, and dynamic security, which protects the interests of stakeholders (Carpenaru, 2008). The enforcement of legal relations is particularly important in terms of economic interests, but this cannot be accepted by exceeding the boundaries of fairness and morality in human conduct. Thus, good faith appears as a determining condition in recognizing the legal effects that appearance produces in concrete situations. Economic interests, though strong, cannot in themselves justify the effectiveness of appearances, but only in so far as they are joined by a moral ideal, a purpose permitted by law, and good morals, evident enough to demonstrate honesty, the will to conform, the prudent attitude, essentially the good faith of the individual (Danis-Fatome, 2004).

The law does not specify the constitutive elements of the theory of appearance, so it remains a jurisprudential creation. The clarity of the conditions for the application of the theory of appearance is important, given its role in reducing the legal insecurity that is sometimes insinuated in civil law in general and in the field of contracts, in particular. In the attempt at theoretical substantiation, expressions such as "*common error*", "*legitimate error*", "*legitimate belief*" are used, underlining to the idea of good faith (Rabagny, 2001). The existence of good faith on the part of third parties is necessary and sufficient in the game of appearance. Although the effects recognized in some applications of the legal mechanism- which led to the consolidation of rights acquired under legal appearance - are extra-legal effects, the motivation for their recognition lies in the union of appearance with good faith. This results in a clear distinction between good and bad faith, with the scope of the recognition of legal effects under the idea of appearance being limited to situations where good faith cannot be questioned. The applications of the theory of appearance have been continuously developed since its creation.

In commercial law, the necessities of contractual certainty give rise to a wider recognition of the effects of appearance, sometimes sacrificing reality. In many cases, commercial law is not concerned with knowing the reality of the rights, but more so with the satisfaction with the appearance of their validity. In the case of commercial securities (e.g., promissory notes, checks etc.), the law imposes certain very strict formal conditions for the validity of the credit titles and, on this basis, admits their regularity, without worrying about their legal cause. Thanks to the recognition of the legal effects of appearance, on a large scale, the movement of goods is much facilitated in favour of the development of the commercial activity (Atanasiu, 2011).

In the Romanian legal framework, the protection of creditors of companies *in bonis* is regulated in art. 1921 and art. 817 of the New Civil Code (NCC). Art. 1921 is entitled "Liability of apparent partners" and states that: "(1) Any person who claims to be a shareholder or deliberately creates a convincing appearance in third parties in this respect is liable to bona fide third parties just as a shareholder; (2) The company will not be liable to the third party thus misled unless it has given sufficient reasons to the latter to consider

the alleged shareholder as such or if, knowing the manoeuvres of the alleged shareholder, does not take reasonable measures to prevent misleading the third party.”

Thus, misleading third parties in regard to the quality of shareholders represents an illicit deed that will attract the responsibility of the party under the conditions of art. 1921 NCC, i.e., by fulfilling one of the two conditions: either directly states that he has the status of shareholder although he never had it or lost it recently; or it induces this belief through its behaviour (indirectly). Clearly regulating the second condition is a beneficial element because it is often difficult or even impossible for creditors to verify the status of a shareholder. It is very possible for a known shareholder terminate its links with the company and to enter into a transaction with a third party (who had previously met him in his shareholder status) on the same day. It would be hard to believe that that third party, although doing all the necessary due diligence, will find out in time about the loss of the status. Another element that needs to be considered is the notion of "reasonable steps" that the company should take to stop the apparent shareholder in order to escape liability. This duty of action of the company derives on the one hand from the need to protect third parties in good faith and as a sanction attached to companies that allow the use of their image and reputation by the alleged shareholder to defraud the interests of creditors. Via this framework, we are implementing a legal fiction, in the sense that it creates a link between the apparent shareholder and the company as if bound by *affectio societatis*.

Indirectly, it could also be the concept of "reliance" and "confidence" in the sense that the image that the company has created or allowed to be created by the apparent shareholder is attributable to it, perhaps to create stability at the level of the business environment, being also one of the practical reasons for using the appearance in commercial law (Rabagny, 2001). But it is necessary to define more clearly what is the standard that the company must meet: is it a subjective one in relation to what it believed or an objective one? We assume from the word "reasonable" that it would be an objective standard, related to the diligence that a company in the same business would perform and with the same level of access to information as the company concerned. However, it is possible that the Romanian legislator would have allowed this looser interpretation because the business environment is a constantly changing and requires, for facilitation of transactions, a flexibility in approaching the relationship between professionals.

However, this approach works well in the case of at arm's length principle, but in the case of an imbalance between the parties, a stricter regulation of this notion would be beneficial. By law ferenda, it would be a solution to define more clearly what are the steps that the company can take (for example public termination or verbal termination of major shareholder leaving the company) to avoid the interpretability and instability of this measure of creditor protection. We should also mention that the injured third party could also resort to the provisions of art. 1349 NCC on tortious liability, because the solution of liability "as a shareholder" could present the inconvenience of not fully repairing the damage if we refer to the limited liability of the shareholder in certain types of companies (limited liability companies etc.). In an earlier version, art.1921 par. (2) regulates two hypotheses in which the company is liable to the third party misled according to par. (1). Art.1921 para. (2) part I provides that "the company will not be liable to the third party thus misled unless it has given sufficient reasons for it to mislead". Compared to the premise from art.1921 par. (1), the text from par. (2) seems to introduce another hypothesis, not entirely uncommon, namely the one in which the misled third party is the apparent

shareholder who considered, in good faith, that he is an associate. That version was amended to make it clear that the company "gave sufficient reasons to regard the alleged shareholder as such" the rule clarification that the third party is the one misled on the nature of the relationship of the apparent shareholder with the company. According to art.1921 para. (2) part II NCC, the company is liable to the misled third party and if, knowing the manoeuvres of the alleged shareholder, it does not take reasonable measures to prevent the misleading third party.

Art. 817 NCC, entitled "Apparent Director" states that "any person who, having full capacity to exercise, creates the appearance regarding another person that the former is the administrator (i.e., *director*) of his property shall be bound by all the contracts which the latter person concludes with bona fide third parties". The legislator enshrines in the New Civil Code another method of protection of creditors, namely the notion of the apparent director, regulating the situation in which a natural or legal person (i.e., a company) with full capacity to exercise that creates about another person the appearance of being the administrator of assets, will be held liable for all acts concluded with bona fide third parties. The regulation refers to the liability of "persons who have the capacity to exercise", so we believe that this regulation also applies to companies, commercial legal entities that have the capacity to exercise, i.e., the ability of the legal person to acquire and exercise subjective civil rights and to assume and fulfil civil duty, by concluding civil legal acts via its governing bodies. This logical and necessary legal construction is enshrined in general in Romanian Decree no. 31/1954 and is reconsidered and developed in the special legislation on different categories of legal persons.

As such, on the one hand, these mechanisms protect the good faith of creditors while, on the other hand, deter companies from defrauding the creditors' trust by creating the appearance of a legal relationship. It is the task of the company to prove either the bad faith of the third party, or the existence of an agreement or another legal or conventional provision that refute the acts concluded by the apparent director.

Via the appearance theory framework, the continental legal framework is growing closer to common law, through the connection to "*reliance*" - a notion which in English law refers to the trust granted based on objective and external reasons to a third party. Such conduct becomes a source of rights and obligations, and the actual contractual will is viewed as second best to this. The closest legal mechanism for the protection of commercial creditors in English law is *estoppel* or more precisely *agency by estoppel* and *partnership by estoppel*. Borrowed from the English language and used as such, the term *estoppel* has no linguistic equivalent in the legal texts of other countries (Merkin, 2011). In international law, *estoppel* is often used to eliminate contradictions in a state's foreign policy. In private law, *estoppel* declares inadmissible a statement which, although in accordance with reality, is contrary to the previous statement or position adopted by a party. English law protects both the *reliance* - the confidence given to an external and objective situation, and the trust given to a person - and requires the subject of law to have a coherent, consistent, and reasonable attitude.

Estoppel was originally a purely procedural mechanism, recognized in the Anglo-Saxon system as a principle of law and morality. It is an original Common Law institution and has no direct equivalent in French-inspired law or other legal systems on the European continent (Merkin, 2011). In essence, *estoppel* seeks to stop or prevent someone from contradicting the appearance that he himself has created, if this would harm another person.

Its scope is very wide, including civil, banking, insurance law, international trade law or labor law. Lord Denning described estoppel in *Moorgate Mercantile v. Twitchings* (1977) as "a principle of justice and fairness." He further describes it as follows: "It comes to this: when a man, by his words or conduct, has led another to believe in a particular state of affairs, he will not be allowed to go back on its words when it would be unjust or inequitable for him to do so".

Some authors considered that the basis of the estoppel principle is an implicit agreement concluded between the author of the representation and the one acting under it, in the form of an agreement or quasi-agreement. For example, Walter Cook, in his work "Agency by Estoppel" (Cook, 1905), that estoppel is based on the idea of a contract obviously concluded between the creditor and the apparent director, based on the doctrine of "consideration" in English contract law. This notion has the double drawback of distorting concepts in the field of contracts and emptying the concept relied on, since the mere existence of an agreement between the parties is sufficient. However, most authors see this as an application of the principle of good faith (Cooke, 2000). The misuse of estoppel, in the absence of actual harm created by the original representation, may give rise to controversial situations in the case law.

The main forms of estoppel covered by this paper are, as previously mentioned, agency by estoppel and partnership by estoppel. Agency by estoppel involves the creation of an apparent mandate or an apparent director where no such legal situation exists (Cooke, 2000). This situation is created by the behaviour of the agent or the principal (the company) that gives the impression of such a position to third parties or does not contradict it when it arises (there is a duty in this regard imposed on the management to rectify this situation if they should have known of it). In English law, this concept is also labelled "apparent authority" or the doctrine of "holding-out". In the case of *Rama Corporation Ltd v Proved Tin and General Investments Ltd* [1952] 2 QB 147, Judge Slade presents the three elements of agency by estoppel as: creating a representation, relying on that representation by third parties and a change in the position of third parties in the cause of confidence in that statement.

In *Freeman and Lockyer v Buckhurst Park Properties (Mangal) Ltd* [1964] 2 QB 480 in which an associate, Shiv Kumar Kapoor entered into a contract with an architectural firm although he was not authorized to do so. It was decided that, because Buckhurst's General Meeting of Shareholder knew and even allowed Mr. Kapoor to act as a director (although no legal contract was entered into), they were required to abide by the agency-based contract by estoppel. as long as the legal status of the company allows a director to conclude such acts. As far as English commercial law is concerned, a link between a person and a company may arise where no such link has been formally established. A person who, by his or her behaviour in his or her words, represents or allows himself or herself to be represented as a partner in a legal partnership is responsible for the appearance to a third-party creditor as if he was actually a real partner. This concept is called "partnership by estoppel" or "presumption of partnership" (Cooke, 2000).

Partnership by estoppel is a doctrine that allows courts to provide compensation to a plaintiff in such a situation. In essence, the doctrine requires a plaintiff to prove that the defendant led the plaintiff to believe that he was a partner in a company. This concept originally emerged from the practice of British courts or *common law*. Later, in some jurisdictions (for example, in the United States) this concept was codified. The plaintiff has

the burden of proof in partnership by estoppel. He must show that the defendant presented himself as a partner, that he relied on that alleged status, and that he suffered losses as a result. If these elements are present, the court should find a partnership by estoppel to have occurred (Cooke, 2000).

The proximity of the notion of estoppel to the theory of appearance is recognized, at the international level, by a large part of the doctrine. The two notions have in common their very essence, their roots in the goal of justice and fairness. The notion of estoppel is based, in fact, on two elements: on the one hand, the inconsistency of the one who promises, and on the other hand, the trust given to the author of the initial representation by the one who invokes the mechanism (reliance). Insisting on one or the other element, we are led to the analogy with the principle *non concedere venire contra factum proprium*, in the sense that no one can contradict to the detriment of another, encountered in German and Swiss law, respectively with the *theory of appearance* in French-based law (Chen, 2000). The resemblance to the theory of appearance lies as well in the fact that both result in punishing the apparent party who by his attitude consciously creates a situation that appears to be real in front of the one who invokes one of the two mechanisms and, on the other hand, the conferment of legal effectiveness to a situation based on good faith. In English law, the apparent situation must have been created consciously, intentionally, knowing that this could lead to an action on the part of the person misled by misrepresentation (Merkin, 2010). Thus, estoppel penalizes contradictory behaviour and tries, like the theory of appearance, to protect good faith were present.

In order to assess the extent of the duty of the liable party, the court will analyse the good faith of the one who invokes one of these mechanisms. The law takes into account good faith in order to clarify the fairness of the factual situation in question and thus to justify the creation of certain legal effects. It is checked *in abstracto*, relating the behaviour of the subject of law as compared to the prudent behaviour of a diligent person, the so-called reasonable individual. The estoppel mechanism gives binding force to an appearance of commitment (Moreteau, 1990). As in the case of appearance theory, this results in the maintenance of an apparent situation. Both mechanisms have somewhat extra-legal effects, their scope being in principle limited. Both aim to protect the parties who commit a legal error.

However, estoppel has applications that moves it away the theory of appearance, the differences being generated by its initial purely procedural function. It also differs in that it is applicable both when the appearance is contrary to reality and when it is true to it (Cooke, 2000). Initially, in the case of the estoppel, the victim must have suffered damage. The way in which estoppel evolved into American law led to the suppression of this condition, considering that the existence of damage was not absolutely necessary, which took it further away from the theory of appearance (Liew, 2020). Appearance theory consists in recognizing the legal effectiveness of acts which do not fully comply with the law, but are concluded in good faith, while the estoppel prohibits the exercise of a right by its holder as a sanction against by his inconsistent attitude. Thus, the principle of appearance looks at the actual situation, while estoppel focuses on the oscillating behaviour of the author of the appearance. In addition, estoppel is a tort rule (Knapp, 1998). Third parties are protected only to the extent that there is evidence of conduct attributable to the author of the representation. They must prove the contradiction in the behaviour of the interlocutor. The theory of appearance does not sanction either the intentional creation of

a deceptive appearance, or its subsequent denial, aiming only at the stability of transactions. It has detached itself from civil liability in order to become an autonomous mechanism (Pham, 1994).

The agency by estoppel also attaches particular importance to the conduct of the representative and to a lesser extent to that of the apparent trustee or third party, while the theory of appearance is centred on the *bona fide* third party deceived by the untrue situation presented as real. Our legal system protects the bona fide third party as long as circumstances have not required him to verify the extent of the apparent agent's powers. The mischiefs covered by agency by estoppel is also found in Romanian legislation. As we have seen, in Romania there is a protection of third parties against the actions of the apparent shareholders and that of the commercial companies that encourage or remain passive towards this fraudulent activity (as art. 1921 para. 2 NCC shows us). Also, third parties, creditors of the company are protected in the situation where the company create an appearance of the existence of an apparent administrator (as regulated in art. 817 NCC). It is interesting to note that this amendment to the New Civil Code seems to be close to the approach taken by English law. Although the notion of good faith is maintained in the sense that creditors will be able to demand the execution of contracts only insofar as they are in good faith, it seems that what is being punished is the conduct of the company and not necessarily the protection of good faith (Chitimira, 2017).

Similarly, a parallel can be observed between partnership by estoppel and the liability of the apparent partners regulated in art. 1921 NCC. It should be noted that the most obvious resemblance can be seen between this type of estoppel and the second premise art. 1921 because, as presented above, the company knew about the malicious manoeuvre and did not trying to remedy it, its actions would also be blocked by partnership by estoppel. Moreover, both notions aim at both the protection of good faith and the punishment of oscillating behaviour and the creation of a fraudulent situation on the part of society.

As for a possible equivalent for art. 1921 para. 1 regarding the apparent shareholder, we can observe another concept based on estoppel and on the doctrine of misrepresentation, namely *implied warranty of authority*. This notion, described by Lord Drummond Young in *Penn v Bristol & West Building Society* [1997] 1 WLR 1360, presupposes that when a person introduces himself, in his words and deeds, that they represent or have a certain status in a company vis-à-vis third party creditors and they, based on this false appearance, behave or contract in a way that they would not do if they did not exist. appearance then that person must comply with the obligation ("warranty"). If he does not have the suggested status, he will be liable for breach of the obligation, even if it was in good faith, considering that he had that status.

A clear difference between these forms of estoppel and the theory of appearance is that often the emphasis is not on the good faith of third parties but on the behaviour of the director or the company in particular. If the appearance was created and the third party relied on it even to a small extent, the duty is born. However, we observe the tendency of the Romanian legislation to start from the notion of good faith as a focal point then shifting to the oscillating or fraudulent behaviour in the case of the liability of the company (art. 817, art. 1921, para. 2 NCC). Although the condition of good faith of third parties is maintained, the main condition is the analysis of the company's behaviour, a departure from other situations of common error in which good faith of a party could cover any element.

absence from a contract, etc. (for example, in the case of the theory of the apparent state representative).

As a final remark, while the UK was part of the EU, the *acquis communautaire* included the First Commercial Law Directive (2009/101/EC) which required the implementation of an article on the protection of creditors in case of appearance or common error. For the first time this notion appears in the Companies Act 1989, being taken over in the Companies Act 2006 (art. 40) by which a company is bound by the acts undertaken by the shareholder or the apparent director in regard to the bona fide third party. In this respect, a relative presumption of good faith of the third party is created, even if he had known that, based on the articles of association, the director could not have carried out such a transaction. Although it considers the idea of good faith which in itself had not been discussed in the common law system, English law goes beyond the requirements of the directive (Article 10 (2) of the Directive referred to regulation on good faith), imposing a presumption as such. So, the onus falls on the company, which is punished for the negligent behaviour.

Currently, the parties can opt for the presumption existing in art. 40 CA but to the extent that they do not fall within such a framework, estoppel remains the main viable option. From an economics perspective, both the theory of appearance and estoppel are particularly significant in handling the market failure of informational asymmetry. The lack of information on the creditor side and the transaction costs associated with identifying the real status of the individual with which you are contracting creates adverse selection (the market for lemons problem). As such, because of adverse selection, creditors will be less incentivized to contract with companies as they cannot properly distinguish the *good* versus *bad companies* (the lemons), to the point that the quality of transactions in a market can degrade in the presence of information asymmetry between creditors and debtors, leaving only "lemons" behind. Frequent solutions for such problems relate to signalling or guarantee mechanisms that separate the good and the bad. Such alternative creditor protection mechanism can fully eliminate the problem in this regard, as even if information asymmetry exists, creditors are still offered protection even from the *bad types (the lemons)* thus functioning, from an economic standpoint, similarly to a guarantee.

Conclusions

This study offers a comparative and economic analysis between Romanian and English creditor protection methods concerning *in bonis* companies. Romania is a country that has a great potential to attract new investments by creating a flexible creditor protection system. The best example is the United Kingdom, which is considered a paradise for flexible creditor protection mechanisms. Analysing the measures of protection of the creditors of *in bonis* companies, it can be considered that there are three pillars in which they can be grouped. On the one hand we have strict rules imposed by the rules on share capital which present a standard method of protection. At the other end of the spectrum are the so-called "self-help" methods, through which creditors can impose their own methods of protection. In this pillar we have the functionality of mandatory disclosure as well as the economic contractual clauses as a means of protection of creditors.

Between the standard method and the method of complete deregulation, we have a third pillar, that of the restrictions imposed on the management bodies of the company, the

shareholders, and directors. These vary in approach from strict rules, such as those on activating the unlimited liability of shareholders or those on directors' restrictions on share capital, to a more flexible approach, as in the case of fiduciary obligations of administrators. A somewhat novel element of the analysis is the comparison of the theory of appearance and the British estoppel as a means of protecting creditors. These two elements do not actually fall into any of the pillars mentioned above but largely compensate for the shortcomings of the above pillars, with the aim of protecting the bona fide creditor. This paper will focus on the analysis of the rules on alternative or *self-help* rules mentioned above as well as an exploration of the theory of appearance (*error communis facit ius*) and estoppel from a Romanian and English perspective, in an attempt to establish exactly what is the functionality and efficiency of these methods, including law and economics considerations. Focus was given to contractual clauses as a possible element of self-help protection for creditors.

Considering contractual means of creditor protection, it has been shown that the best option to improve this protection mechanism is by conducting a real dialogue between creditor and debtor both *ex ante* and in the renegotiation phase. This can be done by reconfiguring the method of operation of the class of creditors or by creating contracts with sensitivity threshold clauses.

In the analysis regarding the comparison between estoppel and the theory of the Romanian appearance, we concluded that, in itself, both doctrines aim at the protection of good faith. However, as a distinguishing feature, it has been found that the estoppel mechanism differs from the theory of appearance in that it is applicable both when the appearance is contrary to reality and when it conforms to it. Initially, in the case of the estoppel, the victim must have suffered damage. The way in which estoppel evolved into British law led to the abolition of this condition, distancing it from the theory of appearance.

Moreover, a clear difference between these forms of estoppel and the theory of appearance is that the emphasis is often not on the good faith of third parties but on the behaviour of the director or the company. If the appearance was created and the third party relied on it to a small extent, the liability is present. However, we observe the tendency of the Romanian legislation to start from the notion of good faith as a focal point then shifting to the oscillating or fraudulent behaviour in the case of the liability of the company (art. 817, art. 1921, para. 2 NCC). Although the condition of good faith of third parties is maintained, the main condition is the analysis of the company's behaviour, a departure from other situations of common error in which good faith of a party could cover any element. absence from a contract, etc. (for example, in the case of the theory of the apparent state representative).

From an economics perspective, both the theory of appearance and estoppel are particularly significant in handling the market failure of informational asymmetry. The lack of information on the creditor side and the transaction costs associated with identifying the real status of the individual with which you are contracting creates adverse selection (the market for lemons problem). As such, because of adverse selection, creditors will be less incentivized to contract with companies as they cannot properly distinguish the *good* versus *bad companies* (the lemons), to the point that the quality of transactions in a market can degrade in the presence of information asymmetry between creditors and debtors, leaving only "lemons" behind. Frequent solutions for such problems relate to signalling or

guarantee mechanisms that separate the good and the bad. Such alternative creditor protection mechanism can fully eliminate the problem in this regard, as even if information asymmetry exists, creditors are still offered protection even from the *bad types (the lemons)* thus functioning, from an economic standpoint, similarly to a guarantee.

We conclude by emphasizing the benefit and efficiency of these mechanisms for the protection of corporate creditors not only in the insolvency proceedings but even more so when the companies are in good standing in trying to create a stable and functional business environment. Alternative self-help mechanisms are rarely addressed in the literature, although the business environment requires such flexible and effective measures to prevent practices that may affect the position of creditors. The purpose of the comparative analysis is to highlight the effectiveness of these mechanisms in both the continental and common law systems, as well as possible ways to improve the process.

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**STUDY OF SPECIALIZED LITERATURE
- "PUBLIC POLICIES TO SUPPORT DIRECT INVESTMENT IN
THE CONTEXT OF SUSTAINABLE DEVELOPMENT" -**

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Adelina-Andreea SIRITEANU

Doctoral School of Economics and Business Administration," Alexandru Ioan Cuza"

University of Iași

Iași, Romania

siriteanuadelinaandreeea@gmail.com, siriteanu.adelina@feaa.uaic.ro

Abstract: *This paper aims to show a structuring of the literature in the field of public policy, namely those that support investment, in the field of investment, with a focus on direct investment, and sustainable development, marked by climate change, pandemic and electricity crisis. Through this study of the literature, I want to find out what is the opinion of the specialists in these 3 mentioned fields. And, to find out if they have already found a relationship between these 3 terms. And later, I will be able to see how my future research can be positioned and how to bring new research elements.*

Keywords: *public policies, direct investment, sustainable development*

Introduction

The interdependence between direct investment and sustainable development is documented by the literature, and on the other hand public policies have been and are those that have created international conventions that contain precise obligations from countries and fixed implementation dates for climate change, protection of wetlands, limiting the use of chemicals, but other words of sustainable development. At present, public policy is defined as an institutionalized proposal that solves the relevant problems of the real world. This institutionalized proposal is oriented according to a conception (Lassance A., 2020) and implemented by a government (Rinfret et al., 2018) as a reaction to social problems. Public policy can generally be defined as a system of laws, regulations, courses of action, and funding priorities on a particular topic, enacted by a government entity or its representatives (<https://mainweb-v.musc.edu/vawprevention/policy/definition.shtml>).

The simplest definition of investment is given by the Explanatory Dictionary of the Romanian Language as "the placement of capital in industrial, agricultural, commercial, etc. enterprises, in order to obtain profit" (<https://dexonline.ro/definitie/investi%C8%9Bie>). Direct investment is often referred to as foreign direct investment (FDI) (<https://www.investopedia.com/terms/d/direct-investment.asp>).

The Organization for Economic Co-operation and Development (OECD) defined FDI in 2008 as "a reflection of the objective of obtaining a long-term interest in an entity resident in an economy (referred to as a 'direct investment enterprise') by a entity resident in another economy (called the "direct investor"), this interest implying a long-term relationship between the direct investor and the direct investment firm, as well as a significant degree of influence of the investor on the management of the receiving investment enterprise" (<https://www.oecd.org/investment/fdibenchmarkdefinition.htm>).

Foreign direct investment is a long-term investment relationship that takes place between 2 entities, one resident and the other non-resident ([https://www.bnr.ro/Cercetarea-statistica-pentru-determinarea-investi%c8%9biilor-foreign-direct-\(ISD\)-18375.aspx](https://www.bnr.ro/Cercetarea-statistica-pentru-determinarea-investi%c8%9biilor-foreign-direct-(ISD)-18375.aspx)). This relationship usually involves significant managerial influence by investors in the companies in which they have invested.

When we want to define sustainable development, we often use it in the form of the concept of sustainable development. This double use is given by the fact that the Explanatory Dictionary of the Romanian Language defines the term sustainable as “sustainable” (<https://dexonline.ro/definitie/sustenabil>). However, in the literature a distinction is made between the 2 terms. The difference between the two terms is that sustainability is about the impact on the environment, people and the economy, and sustainable development is more concerned with how long something will last than, and not necessarily, with the harm it could cause to the planet, people and profits (<https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>). Thus, if we refer to development, this term is mainly used together with the term sustainable.

Sustainable development is a concept based on the responsibility of “present needs, but without affecting the future needs of future generations” (Brundtland Report, 1996). At the same time, the capacity of natural systems to make available those natural resources and services through which the economy and society operate is supported. Thus, resources must be used in a way that does not undermine the stability and integrity of the natural system. And the goals of sustainable development focus on the challenges posed by climate change, environmental degradation, but also on poverty reduction, inequality and peacekeeping.

Sustainable development is based on 3 fundamental pillars, namely the environment, the economy and society. This first vision dates to 1979 and belongs to economist Rene Passet. The concept has also been defined based on the phrase "ecology, economy and equity" (Passet, 1979). This expression allowed the introduction of a 4th pillar by some authors (United Nations, 2014), namely that of culture, institutions, or governance.

Methodology and data

In this paper we will make a presentation of the literature. Thus, I will present the literature in the field of public policy, direct investment, and sustainable development. The analyzed articles are available on Google Scholar. Articles are selected based on the quality of the journal in which they are published, as well as the number of citations. And then I sorted them in chronological order.

Result

The link between FDI and public policy

In table no. 1 I made a presentation of the articles dealing with the link between FDI and public policy.

Table no. 1: The link between FDI and public policy

Article	Result
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Hartman, 1984	Demonstrates that foreign investment in the United States is closely related to changes in domestic fiscal policies.
Hines, 1999	Fiscal policies are likely to affect the volume and location of FDI, as higher tax rates reduce after-tax returns, thereby reducing incentives to invest in investment funds.
Hyytinen and Toivanen, 2005	Demonstrates the importance of public investment support policies through empirical research.
Czarnitzki, 2006	
Carboni, 2017	
Merz et al., 2017	
Rădulescu et al., 2018	

Source: own processing

*** From the 7 analyzed articles we found the following:

-all 7 articles analyze both theoretically and empirically the connection between FDI and public policies;

--all results find a link between FDI and public policy.

A paper (Hartman, 1984) appears in 1984 using data from 1965–1979 in a model of aggregated time series and concludes that foreign investment in the United States is closely related to changes in domestic fiscal policies. International fiscal policies have had and continue to have a significant impact on the size and location of FDI. And they can be used in tax evasion activities because investment decisions in FDI are more receptive to differences in tax rates (Hines, 1999). The importance of public investment support policies is highlighted by numerous other theoretical approaches and empirical research (Hyytinen and Toivanen, 2005, Czarnitzki, 2006, Carboni, 2017, Merz et al., 2017, Rădulescu et al., 2018).

In table no. 2, I made a presentation of the articles dealing with the importance of public policies to support investments.

Table no. 2: The importance of public investment support policies

Article	Result
Hartman, 1984	The increase in annual foreign investment, as we have shown, almost exactly balances the decrease in tax revenues caused by the reduction of the tax rate. Our result is therefore intermediate between: 1) the situation in which foreign investment does not meet taxes at all, in which case a loss of welfare of almost one billion dollars would be generated by a reduction of ten percentage points of the corporate staff of the tax rate (an amount that companies- foreign mother would receive it as an extraordinary profit) and 2) the alternative situation in which a reduction of the corporate income tax rate would generate a massive inflow of capital, which would produce very high welfare gains.
Hyytinen and Toivanen, 2005	3 hypotheses (i) innovation and growth were tested; (ii) dependence on external financing; and (iii) government funding. Here we will present the last hypothesis. What illustrates the reported marginal effects is that disproportionate government funding helps firms in industries that are more dependent on external finance. For example, in an area where every thirty euros of total debt and equity is attributable to government agencies, the difference in the probability of doing R&D is about 5% points $((0.33 - 0.2) 0.03 \times 13,374 \approx 0.052)$ between firms in industries where every third euro is allocated to external financiers and firms in industries where every fifth euro is allocated to external financiers. The

	corresponding difference in the probability of becoming a growing firm is almost four percentage points $((0.33 - 0.2) 0.03 \times 9.415 \approx 0.036)$.
Czarni tzki, 2006	In West Germany, the marginal effect of domestic financial resources amounts to an increase of almost nine percentage points on average. The credit rating used as a proxy for external financial constraints results in a 13-percentage point decrease in probability on the sample average. Thus, a bad credit rating (the average rating is "good" in the sample) quite dramatically decreases the chance of research and development in West Germany. Although this does not apply to East Germany, the impact of subsidies is striking for a medium-sized firm, public support increases research and development by about 60 percentage points. In West Germany, that figure is 24 percentage points. These findings also support the hypothesis that the driving force behind research and development is public funding in East Germany, but not capital markets. Firms in this region do not appear to be subject to financial constraints due to the high level of subsidies available.
Merz et al., 2017	The conclusion given by the authors based on the table is that "A higher tax on location j leads to less FDI in the sector; Stricter regulation in the form of stricter capital requirements as well as higher values of the regulatory index is associated with less FDI in the financial sector". The study's findings suggest that the US enjoys lower taxes in Australia and Canada (but the effects are very small). One explanation for this pattern could be the high cultural (language) or geographical proximity to the United States.

Source: own processing

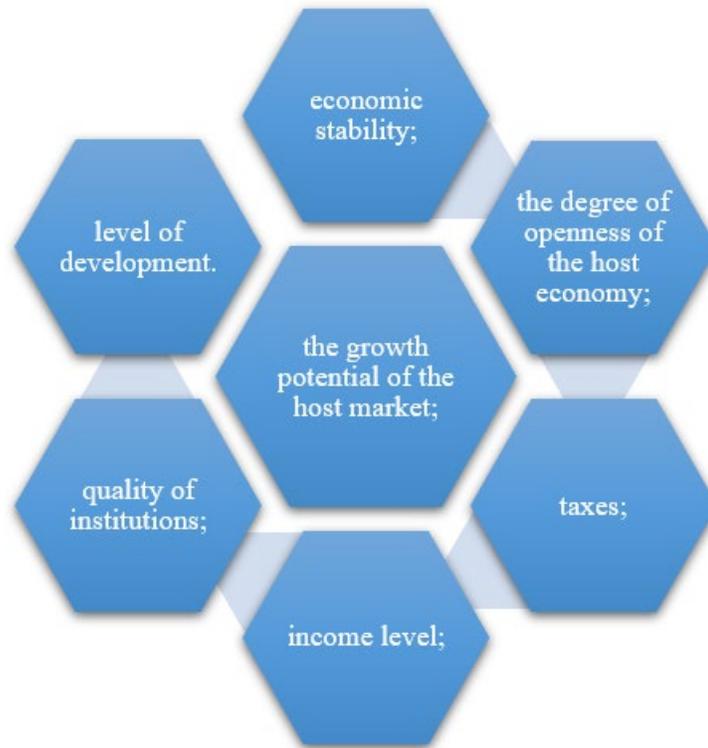
***--all articles empirically demonstrate that public policies support the level of FDI.
--different methodologies are used*

However, the question arises as to why state governments, investors and companies do not automatically adapt to market requirements. State governments are reviewing and improving public policy in this area to some extent, but there are a number of factors that prevent the achievement of desired results, which reduce the potential effect, as well as factors that cause considerable costs and efforts. Also, the progress made is minor, and only with the onset of major economic crises, such as the one triggered by Covid 19, we are witnessing a trend of reform and modernization. The main impediments to the reforms are political differences, but also the shareholders and managers of companies that refuse or do not meet the requirements of investors.

Determinants of FDI

There is no consensus on the "true determinants of FDI" (Kok and Ersoy, 2009, pp. 106). The decision of a multinational company to invest is influenced by a combination of traditional and non-traditional factors (Nunnenkamp, 2002, pp. 11-12, Spinu, 2017, pp. 26). In this paper we will use the classification of the authors Walsh and Yu (2010) who classifies using the classification presented in chart no. 1.

Chart no. 1: Classification of determinants of FDI



Source: own processing after Walsh M. J. P. and Yu, J., 2010, *Determinants of foreign direct investment: A sectoral and institutional approach*, International Monetary Fund, pp 5-6

A determinant of FDI activity in less developed countries is the quality of institutions / corruption. The problem faced by FDI in these countries is the weak legal protection of assets, which increases the chance of expropriating the assets of a company, making the investment less likely. The low quality of the management of public institutions, institutions necessary for the proper functioning of the markets, leads to an increase in the cost of doing business and, thus, should also decrease the activity of FDI. While this basic assumption is not controversial, estimating the extent of the effect of institutions on FDI is difficult to achieve because there are no accurate measurements of institutions. Most measurements are represented by a composite index of a country X and the relevant economic institutions, developed from the survey responses of officials or businessmen familiar with that country. Comparability between countries is questionable as survey respondents vary from country to country. In addition, institutions have few organizational changes, so there is likely to be little change in information over time in a country. Thus, studies on FDI make mention of this aspect, but do not contain an explicit analysis. An exception to this situation is Wei's work (Wei, 2000a, Wei, 2000b) which demonstrates that a variety of corruption indices correlate strongly and negatively with FDI. And other studies (Wheeler and Mody, 1992) have not found such evidence. Another study (Hines, 1995) examines a "natural experiment" in which the Foreign Corrupt Practices Act of 1997 provided for sanctions on American multinational companies that offered bribes to foreign officials. The study's estimates show a negative impact on US FDI in the next period.

Greene and Villanueva (1991, pp. 35), Azam and Lukman (2010), Singhania and Gupta (2011), and Miskinis and Juozenaite (2015) conducted studies on a diverse set of indicators specific to the determinants of FDI. But their results showed a lack of robustness of results, as the chosen indicators were sensitive to specific conditions and locations. Thus, the determinants of FDI such as labor costs, tax regimes, GDP have both negative and positive effects on the economic and political environment of the host country. A recent study (Contractor et al., 2020) examines the impact of regulatory variables on attracting / discouraging FDI. Thus, the authors of this study separated the variable regulations that are based on different stages of the life cycle of a firm from 189 economies and examined the regulatory factors in the host country that influence FDI. They found that countries with more efficient enforcement of international contracts and trade regulations attract more FDI. It is suggested that multinationals are willing to change the poorer institutional variable of one country for another, where the institutional variable is stronger. For example, these companies are willing to invest in countries with less efficient entry and exit regulations in exchange for stricter contract enforcement. These results also have important implications for government policy reform.

Another determinant of FDI is taxes. An obvious hypothesis is that high taxes discourage FDI. Hartman is considered one of the authors who laid the groundwork for the impact of taxes on FDI. Some authors (De Mooij and Ederveen, 2003) point out that the effects of taxes on FDI can vary substantially depending on the type of tax and the tax treatment of the host country and the parent country. Another problem is that a multinational company is facing potential taxes with taxes on the host and home countries. However, measures have been taken at EU level (Directive (EU) 2015/2376 and COM (2015) 0136) to allow for the exchange of information between EU Member States and for tax transparency in order to combat lawful and unlawful tax evasion.

In table no. 3 I made a presentation of the articles dealing with the impact of taxes on FDI.

Table no. 3: Determined factors of FDI

Determined factors		
<i>quality of institutions / corruption</i>		
Greene and Villanueva (1991), Azam and Lukman (2010), Singhania and Gupta (2011), and Miskinis and Juozenaite (2015)	Empirical research	their results showed a lack of robustness of results, as the chosen indicators were sensitive to specific conditions and locations. Thus, the determinants of FDI such as labor costs, tax regimes, GDP have both negative and positive effects on the economic and political environment of the host country.
Wheeler and Mody, 1992	Empirical research	they found no such evidence
Wei, 2000a, Wei, 2000 b	Empirical research	demonstrates that a variety of corruption indices correlate strongly and negatively with FDI.
Contractor et al., 2020	Empirical	found that countries with more efficient enforcement of international trade contracts and regulations attract more FDI. It is suggested that

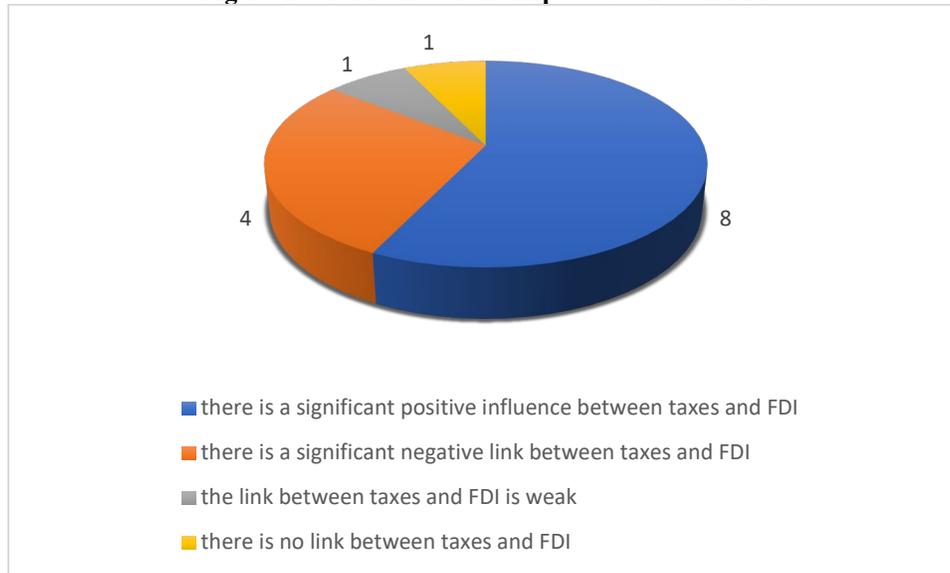
	research	multinationals are willing to change the poorer institutional variable of one country for another, where the institutional variable is stronger.
<i>Tax</i>		
Gastanaga et al., 1998	Empirical research	The corporate tax rate has a significant negative and linear influence on FDI.
Devereux, 2002	Empirical research	Demonstrates that the size of the profit tax has led to a decline in the rate of competition in developed countries in the 1980s.
De Mooij and Ederveen, 2003	Empirical research	The effects of taxes on FDI can vary substantially depending on the type of tax and the tax treatment of the host country and the parent country.
Görg and Greenaway, 2004	Theoretical and empirical approach	Different states have offered different types of incentives for foreign companies to invest in their country.
Aqeel et al., 2004	Empirical research	They also demonstrated, through cointegration and the error correction model for the period 1961–2003, that the tariff, the exchange rate and the tax rate have a significant impact on attracting FDI to Pakistan.
Buettner and Ruf, 2007	Empirical research	The empirical results of the study indicated that a 50% increase in the probability of a 10% tax rate would reduce FDI by 12.5%.
Devereux et al., 2008	Theoretical and empirical approach	He used 2 models of the competitive process of the movement of capital and firms across borders. The first model confirmed the hypothesis that the governments of these states bring appeals against legal and effective tax rates, and companies decide on the location of the investment based on these rates. And what second model demonstrates that the investment decision of companies is made based on the rate of allowances and the effective marginal tax rate.
Hansson and Olofsdotter, 2008	Empirical research	It proves that FDI flows are negatively associated with the difference between the effective marginal tax rates of the corporations in the investment country and their domicile and less effective in the difference between the average share of corporate tax. The empirical results of this study show that a 1% increase in the fiscal gap leads to a 2.5–4% decrease in FDI for the country.
Bellak et al., 2009	Empirical research	The study shows that corporate taxes and infrastructure are interconnected in attracting FDI.
Egger et al., 2009	Empirical research	Using the calculation technique of Devereux and Griffith (2003), it was confirmed that the unilateral tax rate has a significant effect on the production and decision of multinational companies on the location.

Gurtner and Christensen, 2009	Theoretical and empirical approach	Stresses that one of the strongest ideologies of traditional economic policy is fiscal competition. Evidence from the empirical study showed that the fiscal stimulus is a rather weak tool in attracting foreign direct investment, and on the other hand, promoting corporate profit taxation ultimately harms the democratic ability to provide better public services to citizens.
Hunady and Orviska, 2014	Empirical research	There is no significant impact on corporate income tax on FDI in the European Union.
Economou et al., 2017	Theoretical and empirical approach	The study found that the lower tax rate is a major determinant of FDI along with market size, labor, costs, and institutional variables in developing countries as trade opening, education, market size, strength labor cost, gross capital formation along with taxation reported as significant determinants of FDI in developed countries.
Nazir et al., 2020	Empirical research	The results of the study show that in Pakistan FDI is statistically significant and negatively influenced by the corporate tax rate in the presence of terrorism, energy shortages, labor, infrastructure, and openness.

Source: own processing

In the figure no. 1, we presented the main results of the impact of taxes on FDI according to the table no. 3.

Figure no. 1: Results of the impact of taxes on FDI



Source: own processing

*** From the 14 articles (taken in chronological order) that analyze the impact of taxes on FDI, based on their results we identified that:

--**there is a significant influence between taxes and FDI: 8 articles** (Devereux, 2002, De Mooij and Ederveen, 2003, Görg and Greenaway, 2004, Aqeel et al., 2004, Devereux et al., 2008, Bellak et al., 2009, Egger et al., 2009, Nazir et al., 2020);

--**there is a significant negative link between taxes and FDI**: 4 articles (Gastanaga et al., 1998, Buettner and Ruf, 2007, Hansson and Olofsdotter, 2008, Nazir et al., 2020);
--- **the link between taxes and FDI is weak**: 1 article (Gurtner and Christensen, 2009);
---- **there is no link between taxes and FDI**: 1 article (Hunady and Orviska, 2014);
-**other variables are introduced in the equation**: 3 articles (Aqeel et al., 2004, Economou et al., 2017, Nazir et al., 2020);
--**the workforce variable is a common variable for 2 articles** (Economou et al., 2017, Nazir et al., 2020);

In the case of developing countries (Gastanaga et al., 1998), data from 49 such countries were used in a multivariate analysis for the period 1970–95. Here the impact of different variables on FDI was considered and it was concluded that the corporate tax rate has a significant negative and linear influence on FDI. Thus, the location of the investment has become a critical factor influencing the tax rates and therefore the location with the lower tax rate is chosen. Another study (Devereux, 2002) shows that the size of the profit tax has led to a decline in the rate of competition in developed countries in the 1980s to attract FDI. Another study (Görg and Greenaway, 2004) states that different states have offered different types of incentives for foreign companies to invest in their country. An example is Ireland, which offered a 12.5% corporate tax rate to production companies located in that country. And in Pakistan, another study (Aqeel et al., 2004) demonstrated, through cointegration and the error correction model for the period 1961–2003, that the tariff, the exchange rate and the tax rate have a significant impact on attracting FDI in Pakistan.

Another study (Buettner and Ruf, 2007) used a firm-level data panel to examine the influence of tax rate on the decision-making of German multinationals to set up a subsidiary in other European / foreign countries. And the empirical results of the study indicated that a 50% increase in the probability of a 10% tax rate will reduce FDI by 12.5%. And the 2008 study (Devereux et al., 2008) analyzed data from 21 large, industrialized states from 1983–1999 using 2 models of the competitive process of capital and firm movement across borders. The first model confirmed the hypothesis that the governments of these states bring appeals on legal and effective tax rates, and the companies decide based on these rates the location of the investment. And what second model demonstrates that the investment decision of companies is made based on the rate of allowances and the effective marginal tax rate. Another study (Hansson and Olofsdotter, 2008) uses the gravitational model and panel data on bilateral FDI flows from 14 EU Member States for the period 1986–2004 to analyze the impact of tax rates and savings on capital flows. Thus, FDI flows are shown to be negatively associated with the difference between the effective marginal tax rates of the corporations in the investment country and their domicile and less effective in the difference between the average share of corporate tax. The empirical results of this study show that a 1% increase in the fiscal gap leads to a 2.5–4% decrease in FDI for the country.

Another study (Bellak et al., 2009) uses the augmented gravitational model for 8 EU member states that were part of the former Eastern bloc. The study shows that corporate taxes and infrastructure are interconnected in attracting FDI. In another study from the same period (Egger et al., 2009), bilateral and unilateral tax rates were used to determine the impact of the corporate tax rate on FDI in OECD countries. All the tax treaties in these states were considered and using the calculation technique of Devereux and Griffith (2003)

it was confirmed that the unilateral tax rate has a significant effect on the production and decision of multinational companies on the location. A 2009 study (Gurtner and Christensen, 2009) pointed out that one of the strongest ideologies of traditional economic policy is fiscal competition. Evidence from the empirical study showed that the fiscal incentive is a rather weak tool in attracting foreign direct investment, and on the other hand, promoting corporate profit taxation ultimately harms the democratic ability to provide better public services to citizens. On the other hand, tax havens are those that allow multinationals to transfer profits from high-taxed countries to lower-taxed countries through transfer pricing (Eden L., 2009).

Other authors (Hunady and Orviska, 2014) used panel data in the regression model and concluded that there is no significant impact on corporate income tax on FDI in the European Union. Another study from 2014 (Du et al., 2014) shows the changes between 1998–2007 in Chinese industrial policies. The ownership of thousands of public sector enterprises has been changed or liquidated. To promote FDI, the corporate tax rate was reduced to 15% for foreign companies, while local companies were taxed at 33%. It subsequently fell to 9.4% after the country became a member of the WTO in 2001. A 10-year sample of data was also compiled from the Chinese National Bureau of Statistics in certain sectors and firms and using the production function. It was confirmed that the productivity of foreign firms was much higher than that of local firms. The results showed that a 1% increase in foreign investment leads to an increase in the productivity of the supplier company by 2-3%.

A fairly recent study (Economou et al., 2017) examined the determinants of FDI inflows in 24 OECD member countries and 22 developing countries between 1980–2012. The study found that the lower tax rate is a major determinant of FDI along with market size, labor, costs and institutional variables in developing countries as trade opening, education, market size, strength labor cost, gross capital formation along with taxation reported as significant determinants of FDI in developed countries. Another study (Azémar and Dharmapala, 2019) reported that tax-saving agreements are associated with a 97% increase in FDI from 23 OECD countries to 113 developing and transition economies in the period 2002–2012. And a recent study (Esteller-Moré et al., 2020) shows that a 10% increase in the corporate tax rate reduced FDI by 3.4–1.9% in non-OECD countries in 2004.

Another recent study (Nazir et al., 2020) provides an insight into the impact of the statutory corporate income tax rate on FDI in Pakistan through empirical evidence. The results of the study show that in Pakistan FDI is statistically significant and negatively influenced by the corporate tax rate in the presence of terrorism, energy shortages, labor, infrastructure, and openness.

The link between FDI and economic growth, the goal of sustainable development

Within the table no. 4 I made a presentation of the articles dealing with the link between FDI and economic growth.

Table no. 4: The link between FDI and economic growth

Article	Model used	Explication
Borensztein et al., 1998	Theoretical approach	According to the neoclassical model, FDI contributes to economic growth by increasing the volume of investments and

		increasing their efficiency. In contrast, the endogenous model assumes that <i>FDI provides economic growth by dispersing technologies from developed economies in developing countries.</i>
Borensztein et al., 1998	Empirical research	FDI creates an effect of economic growth when the country receiving FDI has a category of human capital with a high level of education.
Blomström et al., 1994	Empirical research	They do not consider that the level of education is the essential conjuncture for FDI to contribute to the economic growth of the host country, but that <i>FDI has a positive effect only if the host country is rich enough.</i>
Balasubramanyam, 1996	Empirical research	He argues that FDI is more important for growth in exporting countries than in importing countries.
Bengoa and Sanchez-Robles, 2003	Empirical research	FDI is positively correlated with economic growth, but with the specification that recipient countries need 3 elements, namely: human capital, economic stability, and liberalized markets. And in this way, they can benefit from the effects of FDI flows over a long period of time.

Source: own processing

**-all articles find a link between FDI and growth

According to the neoclassical model, FDI contributes to economic growth by increasing the volume of investments and increasing their efficiency. In contrast, the endogenous model assumes that FDI provides economic growth by dispersing technologies from developed economies in developing countries (Borensztein et al., 1998). Authors such as Borensztein, De Gregorio, and Lee (1998) argue through their empirical findings that FDI creates an effect of economic growth if the country receiving FDI has a category of human capital with a high level of education. Thus, the recipient country of FDI is thus able to exploit the spillover effects of FDI. In other words, a high level of employment skills can lead to higher rates of growth at a given level of FDI. However, these authors, mentioned above, point out that there is a possibility that recipient countries may require a minimum stock of human capital to achieve positive FDI results.

Unlike the 3 authors mentioned above, Blomström, Lipsey and Zehan (1994) do not consider that the level of education is the essential conjuncture for FDI to contribute to the economic growth of the host country, but FDI has a positive effect only if the host country is rich enough. The study by Balasubramanyam (1996) supports the hypothesis that FDI is more important for economic growth in exporting countries than in importing ones. In other words, the impact of FDI is given by the state's trade policy. And the authors Bengoa and Sanchez-Robles (2003) believe that FDI is positively correlated with economic growth, but with the specification that recipient countries need 3 elements, namely: human capital, economic stability, and liberalized markets. And in this way, they can benefit from the effects of FDI flows over a long period of time.

Conclusions

In conclusion, we can say that a cause-and-effect relationship is created between the 3 terms, namely public policy, direct investment, and sustainable development. Thus, the modernization of public policies to meet the demands of the pandemic, their support for investment lead to sustainable development. In this way, the EU's goals are met, but

these standards can be exceeded, as the company has been changed by Covid-19 and, implicitly, the growth rate of the economy and development.

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