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CHALLENGES OF SOCIAL CHANGE ON FAMILY SYSTEM AND SOCIALIZATION IN KADUNA STATE, NIGERIA: IMPLICATION FOR SOCIAL STUDIES EDUCATION

By
Bayero H. I¹, Zulyadaini Sani Gaya² & Uthman Shehu Lawal³

ABSTRACT

The study investigated the challenges of social change on family system and socialization in Kaduna State-Nigeria: Implication for Social Studies Education. The two research objectives raised for the study were to; assess the challenges of social change on the family life in rural and urban centres in Kaduna state and find out how social change affected the socialization of children in rural and urban centres in Kaduna state. In line with these objectives, the research questions and hypothesis both were formulated. The study adopted descriptive design using survey method. A sample of 370 was selected through sampling random, using "Hat and draw method". The instrument used in this study was the Challenges of Social Change on Family and Socialization Questionnaire (CSCFOM). This instrument consists of 28 items statement. The test-retest method established 0.73 reliability for CSCFOM using the Pearson's Product Moment Correlation. The data collected were first presented using Frequency and percentage table. The one-way Analysis of Variance (ANOVA) was used on three categories of respondents to test the null hypotheses. Out of the two null hypotheses tested, one was retained and one rejected. The study revealed that, social change has led to domestic violence; difficulties in family interaction and caring; increase in financial difficulties has resulted to child abuse and neglect; there is increase in cases of divorce as well as orphans and child-headed families due to religious conflict, terrorist attack, HIV/AIDS and other deadly disease that attacks the family head; decrease in family size due to use of modern family planning methods and as well, the rampant and uncontrolled watching of foreign satellite channels has negatively affect the socialization of the children in the society. The study recommend among others that, government should introduce the teaching of social studies at senior secondary school level this will help in equipping the adolescents with the vital skills of family life because most of them may not have the opportunity for furthering their education or read social studies as a course at tertiary level

1. INTRODUCTION

The family is the heart of the society and its constellation is one that needs proper understanding and management for it to remain stable. However, the crisis in the family system today and their capacity to disrupt the very foundation of the society makes it imperative for social studies education to intervene because, Social Studies is not concerned with acquiring knowledge for its sake. It is a curriculum package to serve as a tool in solving family and societal problems. It is a problem centred, problem-solving discipline. This study therefore, explored the role social studies could play in minimizing the challenges facing the family and socialization of children in Kaduna state.

2. STATEMENT OF THE PROBLEM

The family system and socialization process of the child has been undergoing changes in recent years, The average family size has decreased all over the world, young people are getting married at a later age, the average age of mothers at first birth has increased, alternative forms of union have grown more common such as unmarried cohabitation, increased divorce, the social media as one of the socialization agents is causing havoc adolescents and youths in the society. Significant numbers of both single parent families and single person households have emerged including a rising number of older persons living alone. And these challenges are compounded by the HIV/AIDS pandemic which is wreaking havoc on families, often depriving children of their parents leaving grandparents to care for children. Among other Salient challenges facing the family and socialization of the child today is ensuring social integration and intergenerational solidarity. There is a decreasing bond and integration in the family, and generations particularly the younger and older ones are becoming distanced and segregated from one another which is in turn decreasing positive relationship and yielding negative stereotypes between them. This study

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therefore investigated the challenges of Social Change on Family System and socialization in Kaduna State, Nigeria: Implication for social studies education. Thus, the following study objectives were drawn from the statement of the problem presented above:

- i. Assess the challenges of social change on the family life in rural and urban centres in Kaduna state
- ii. Find out the challenges of social change on socialization of the children in rural and urban centres in Kaduna State.

3. RESEARCH QUESTIONS

The following research questions were explored in the study:

- i. Does the challenges of social change affect family life in rural and urban centres in Kaduna state
- ii. What are the challenges of social change on socialization of children in rural and urban centres in Kaduna state

4. RESEARCH HYPOTHESIS

The following hypothesis were formulated for the study

- i. There is no significant difference in the challenges of social change on family life in rural and urban centres in Kaduna state
- ii. There is no significant difference in the challenges of social change on socialization of children in rural and urban centres in Kaduna state

5. LITERATURE REVIEW

The term social change is used to indicate the changes that take place in human interactions and interrelations. Society is a web of social relationships and hence social change means change in the system of social relationships. Also, social change is a social process whereby the values, attitudes, or institutions of society become modified. It is a shifting of societal norms, which indicates that an entire society has adopted and applied a new behaviour or way of thinking. Norms are the agreed-upon expectations and rules by which a culture guides the behaviour of its members in any given situation. Therefore social change is a significant alteration over time in behaviour patterns and cultural values and norms (Omobola, 2013). According to Mezieobi and Danladi (2012) family values simply refers to rulers or ideals, which a family as a unit agrees to live by and stay true. It is those largely positive dispositions of family to actions, desires, preferences which are considered beneficial, important, worthwhile and good and which as a matter of fact govern the family's social living, it's thought and way of life.

In one sense, family may be defined to include all persons with common ancestors. This definition connotes extended family system. In a more restrictive sense, the term 'family' may refer to a smaller group consisting of the man, wife or wives, the children and probably dependants that are part of his house hold . It is the cradle of human society and the nursery ground of moral values. In other words, it is the basic social unit of the society. It comprises the husband, wife and the children. However in a traditional African family, membership includes not only the man, his wife and children but also all blood relations of a common decent such as grandchildren, nephews, nieces, and aunts. Consequently, a typical African family is considered as groups with different sizes one bigger than the next one, "like concentric circles or eddies-the 'family', the village, the clan, the tribe-with the 'family' at the centre as the basic social unit"(Egbeke 2000).The rapid socio-economic and demographic transformations, triggered by social change has made the family system to find it more and more difficult to fulfil their numerous responsibilities, Many families struggle to overcome poverty and adequately provide for the younger and older family members, it has also become more and more difficult for them to reconcile family responsibilities and maintain the intergenerational bonds that sustained them in the past. Other contributing factors to these challenges are demographic trends towards smaller households, increase in the number of women's participation in the workforce, Ingratitude or poor acknowledgement of one another's service, ugliness and frequent ill-health, incompatibility, emotional instability, aggression, domestic violence, sexual incompatibility, sexual dissatisfaction, infidelity, sexual abuse, third party interference parents-in-law, siblings-in law, friends, lack of sincerity/trust, lack of love, respect and care

for one another, maltreatment, and social or natural disasters such as communal or sectarian riots, famine, drought, flood, earthquake and epidemics of diseases create crisis in the family. There is separation or loss of loved ones, rapid urbanization and greater mobility in search of better opportunities, which have all resulted in excessive work hours, reduces the time parents spend with their children and have a negative impact on family interactions. On the other hand, Aliyu (2013) stated that media especially, the foreign effect the socialization of children; change in family resident which is as a result of modernity and urbanization has also lead to fault in the socialization processes. He also stated further that, parents are no longer models to their children and martial homes are facing problem resulting from poor social role training.

6. METHOD AND PROCEDURE

The design adopted for the study was the descriptive design using survey method. The population of the Kaduna state is 6,113,503 based on the preliminary 2006 census figure (Wikipedia,2014). A sample of 375 was selected for the study based on the recommended research sample size of Research Advisor (2006) for a population of 10,000 and above, a confidence level of 95%, and a margin of error (degree of accuracy) of 0.05. The sample were randomly selected from 12 local government in Kaduna State which comprised of Zaria, Sabon- Gari, ChukunIgabi, Ikara, Kaduna North, Kaduna South, Makarfi, Lere, Jaba, Giwa and Soba Local government area in Kaduna State. Simple random sampling using the "hat and draw" method was used. The instrument used in this study was the Challenges of Social Change on Family System (CSCFOM) Questionnaire. This instrument consists of 28 items statement. The test-retest method established 0.73 reliability for CSCFOM using the Pearson's Product Moment Correlation. The data collected were first presented using Frequency and percentage table. The one-way Analysis of Variance (ANOVA) was used on three categories of respondents to the test the null hypotheses. The three categories of respondents include:

- i. Civil servants and students;
- ii. Self employed and Housewife and
- iii. Traditional rulers.

7. RESULTS

Table 1: Opinion of respondents on the challenges of social change on family life

	Items statement	Status of Respondents	Strongly agree	Agree	Undecided	Disagree	Strongly disagree
4	Working class Parent spends little time with their children at home	Civil servants and students	78(26.6)	126(43.0)	8(2.7)	71(24.2)	10(3.4)
		Self employed and housewife	11(27.5)	16(40.0)	2(5.0)	11(27.5)	0(0.0)
		Traditional rulers	1(10.0)	4(40.0)	0(0.0)	4(40.0)	1(10.0)
5	Most poor family experiences domestic violence	Civil servants and students	38(13.0)	131(44.7)	27(9.2)	70(23.9)	27(9.2)
		Self employed and housewife	6(15.0)	10(25.0)	4(10.0)	15(37.5)	5(12.5)
		Traditional rulers	1(10.0)	4(40.0)	3(30.0)	2(20.0)	0(0.0)
6	There is delay in marriage due to high cost of living	Civil servants and students	81(27.6)	145(49.5)	20(6.8)	37(12.6)	10(3.4)
		Self employed and housewife	12(30.0)	19(47.5)	4(10.0)	2(5.0)	3(7.5)
		Traditional rulers	4(40.0)	5(50.0)	0(0.0)	0(0.0)	1(10.0)
7	High taste among most women nowadays leads to family conflict/divorce	Civil servants and students	69(23.5)	127(43.3)	25(8.5)	60(20.5)	12(4.1)
		Self employed and housewife	14(35.0)	15(37.5)	3(7.5)	4(10.0)	4(10.0)
		Traditional rulers	0(0.0)	6(60.0)	0(0.0)	4(40.0)	0(0.0)

8	Infidelity is becoming rampant among couples	Civil servants and students	52(17.7)	93(31.7)	36(12.3)	91(31.1)	21(7.2)
		Self employed and housewife	6(15.0)	13(32.5)	4(10.0)	12(30.0)	5(12.5)
		Traditional rulers	0(0.0)	1(10.0)	3(30.0)	5(50.0)	1(10.0)
9	Child abuse and neglect is experienced in some family faced with financial difficulties	Civil servants and students	69(23.5)	110(37.5)	45(15.4)	53(18.1)	16(5.5)
		Self employed and housewife	6(15.0)	19(47.5)	5(12.5)	6(15.0)	4(10.0)
		Traditional rulers	2(20.0)	5(50.0)	0(0.0)	3(30.0)	0(0.0)
10.	Most parent uses abusive language on their children	Civil servants and students	41(14.0)	96(32.8)	22(7.5)	97(33.1)	37(12.6)
		Self employed and housewife	7(17.5)	11(27.5)	5(12.5)	11(27.5)	6(15.0)
		Traditional rulers	1(10.0)	3(30.0)	0(0.0)	5(50.0)	1(10.0)
11	There is increase in number of orphans and child-headed families due to religious conflict, terrorist attack, HIV/AIDs and other deadly disease that attacks the family head today	Civil servants and students	33(11.3)	72(24.6)	30(10.2)	107(36.5)	51(17.4)
		Self employed and housewife	7(17.5)	13(32.5)	2(5.0)	13(32.5)	5(12.5)
		Traditional rulers	2(20.0)	1(10.0)	0(0.0)	6(60.0)	1(10.0)
12	There is increase in number of divorce cases among couples	Civil servants and students	77(26.3)	114(38.9)	18(6.1)	47(16.0)	37(12.6)
		Self employed and housewife	14(35.0)	14(35.0)	2(5.0)	6(15.0)	4(10.0)
		Traditional rulers	3(30.0)	2(20.0)	0(0.0)	4(40.0)	1(10.0)
13	Practices of modern family planning is on the increase in our society	Civil servants and students	67(22.9)	128(43.7)	31(10.6)	47(16.0)	20(6.8)
		Self employed and housewife	11(27.5)	17(42.5)	2(5.0)	7(17.5)	3(7.5)
		Traditional rulers	1(10.0)	6(60.0)	2(20.0)	1(10.0)	0(0.0)
14	The rampant and uncontrolled watching of foreign satellite channels by children is seriously affecting their behaviors negatively	Civil servants and students	75(25.6)	96(32.8)	47(16.0)	57(19.5)	18(6.1)
		Self employed and housewife	8(20.0)	19(47.5)	3(7.5)	7(17.5)	3(7.5)
		Traditional rulers	3(30.0)	3(30.0)	2(20.0)	2(20.0)	0(0.0)

Source: Field survey, 2014

The table revealed that the civil servants were generally in agreement with the expressed notion that the working class Parent spends little time with their children at home. The percentages were 78 or 26.6% and 126 or 43.0% for strongly agree and agreed respectively. But 8 or 2.7% of them did not express their opinion on the issue and 71 or 24.2% along with 10 or 3.4% of the civil servants disagreed and strongly disagreed respectively with the opinion. Among the self employed, 11 or 27.5% and 16 or 40.0% strongly agreed and agreed with the opinion while 11 or 27.5% disagreed with the opinion and 2 or 5.0% of them did not express their view on the issue. Though 4 or 40.0% and 1 or 10.0% of the traditional ruler agreed and strongly agreed with the opinion but 4 or 40.0% and 1 or 10.0% disagreed and strongly disagreed that working class Parent spends little time with their children at home. The positive opinion of civil servants on the family life is further demonstrated in the response to the second item in the table were 38 or 13.0% and 131 or 44.7% of them strongly agreed and agreed respectively with the opinion that most poor family experiences domestic violence. However, 27 or 9.2% of the civil/public servants did not answer the question while 70 or 23.9% and 27 or 9.2% disagreed and strongly disagreed respectively with the notion. But among the self employed, opinion was divided as only 6 or 15.0% and 10 or 25.0% of them strongly agreed and agreed with the statement and 15 or 37.5% along with 5 or 12.5% disagree and strongly disagreed respectively. Though, 3 or 30.0% of the traditional rulers did not respond to the item but 4 or 40.0% and 1 or 10.0% agreed and strongly agreed with the

statement respectively. Only 2 or 20.0% of the traditional rulers disagreed with the statement. However, there was a unanimous agreement by the groups that, there is delay in marriage due to high cost of living. In the same vein, the respondents agreed that High taste among most women nowadays leads to family conflict/divorce. These are clearly demonstrated in items 3 and 4 of the table respectively.

The civil/public servant however disagreed as indicated in the table with 91 or 31.1% and 21 or 7.2% along with 36 or 12.3% who did not answer the question that infidelity is becoming rampant among couples. The self employed also towed the line of the civil servant response on this item as indicated by their frequencies and percentage scores. The traditional rulers were particularly more in disagreement with the suggestion that Infidelity is becoming rampant among couples. Among them (traditional rulers) 5 or 50.0% and 1 or 10.0% along with 3 or 30.0% did not agree with the notion expressed. However, all the groups agreed that child abuse and neglect is experienced in some family faced with financial difficulties. This is clearly demonstrated in item 6 in the table with high frequency for agreement. The respondents did not agree that most parent uses abusive language on their children. In the same vein, the three groups did not agree that there is increase in number of orphans and child-headed families due to religious conflict, terrorist attack, HIV/AIDs and other deadly diseases that attack the family head. However, the respondents agreed that there is increase in number of divorce cases among couples. The percentage of disagreement on these items was relatively low as demonstrated in the table. And the respondents agreed that practice of modern family planning is on the increase in our society. Furthermore, the respondents agreed that the rampant and uncontrolled watching of foreign satellite channels by children is seriously affecting their behaviours negatively. From the overall assessment, it could be concluded that social change has negatively affected the family life of people living in Kaduna state, Nigeria.

Table 2: Summary table for one-way Analysis of variance on challenges of social change on family life in Kaduna state

Source	Sum of Squares	DF	Mean Square	F	Sig.	Decision
Between Groups	.276	2	.138	.573	.565	Retained
Within Groups	82.043	340	.241			
Total	82.319	342				

(F-critical=3.00, $P > 0.05$)

The result of the tests revealed that the respondents did not differ significantly in their opinions on challenges of social change on family life in Kaduna state. The observed F-value (0.573) for the test is lower than the critical value of 3.00. The observed levels of significance (0.565) for the test is higher than 0.05 ($P > 0.05$). With these observations there is no sufficient evidence to reject the null hypothesis that there is no significant difference between civil servant, self employed and traditional rulers on the challenges of social change on family life in Kaduna State.

Table 3: Opinion of respondents on the challenges of social change on socialization of children in Kaduna state

	Item statement	Status of Respondent	Strongly agree	Agree	Undecided	Disagree	Strongly disagree
15	The family which is the first agent of socialization is not performing its functions as it is required.	Civil servants and students	67(22.9)	108(36.9)	5(1.7)	81(27.6)	32(10.9)
		Self employed and housewife	12(30.0)	12(30.0)	1(2.5)	11(27.5)	4(10.0)
		Traditional rulers	2(20.0)	3(30.0)	0(0.0)	5(50.0)	0(0.0)
16	Most a times discipline of children by members of the society/ family friend result to conflict	Civil servants and students	40(13.7)	117(39.9)	22(7.5)	92(31.4)	22(7.5)
		Self employed and housewife	9(22.5)	15(37.5)	1(2.5)	10(25.0)	5(12.5)
		Traditional rulers	1(10.0)	1(10.0)	0(0.0)	8(80.0)	0(0.0)
17	Media as agent of socialization have negative effect the socialization of the child	Civil servants and students	80(27.3)	129(44.0)	18(6.1)	45(15.4)	21(7.2)
		Self employed and housewife	14(35.0)	15(37.5)	4(10.0)	6(15.0)	1(2.5)
		Traditional rulers	1(10.0)	6(60.0)	0(0.0)	1(10.0)	2(20.0)
18	Most children are left unguided and unprotected from the ills and vices in the society	Civil servants and students	72(24.6)	118(40.3)	27(9.2)	61(20.8)	15(5.1)
		Self employed and housewife	11(27.5)	16(40.0)	1(2.5)	12(30.0)	0(0.0)
		Traditional rulers	1(10.0)	1(10.0)	2(20.0)	4(40.0)	2(20.0)
19	The extended unlike before involve little in the socialization of children nowadays	Civil servants and students	58(19.8)	117(39.9)	19(6.5)	62(21.2)	37(12.6)
		Self employed and housewife	8(20.0)	16(40.0)	3(7.5)	12(30.0)	1(2.5)
		Traditional rulers	1(10.0)	3(30.0)	1(10.0)	4(40.0)	1(10.0)
20	Some parents are more interested in material acquisition to the detriment of effective socialization of their wards.	Civil servants and students	91(31.1)	109(37.2)	21(7.2)	53(18.1)	19(6.5)
		Self employed and housewife	13(32.5)	10(25.0)	5(12.5)	10(25.0)	2(5.0)
		Traditional rulers	3(30.0)	5(50.0)	1(10.0)	1(10.0)	0(0.0)
21	Few parents teaches their children the acceptable values and norms of the society	Civil servants and students	117(39.9)	108(36.9)	16(5.5)	34(11.6)	18(6.1)
		Self employed and housewife	18(45.0)	11(27.5)	4(10.0)	4(10.0)	3(7.5)
		Traditional rulers	4(40.0)	6(60.0)	0(0.0)	0(0.0)	0(0.0)
23	Over protection is more depicted today in our modern society than proper training/discipline of children	Civil servants and students	70(23.9)	118(40.3)	13(4.4)	66(22.5)	26(8.9)
		Self employed and housewife	9(22.5)	19(47.5)	2(5.0)	10(25.0)	0(0.0)
		Traditional rulers	1(10.0)	2(20.0)	1(10.0)	6(60.0)	0(0.0)
24	Assimilation of foreign culture has greatly influence our socialization process	Civil servants and students	38(13.0)	82(28.0)	22(7.5)	111(37.9)	40(13.7)
		Self employed and housewife	4(10.0)	15(37.5)	2(5.0)	15(37.5)	4(10.0)
		Traditional rulers	1(10.0)	4(40.0)	0(0.0)	3(30.0)	2(20.0)
25	The school is no longer performing its function as agent of socialization	Civil servants and students	44(15.0)	107(36.5)	18(6.1)	97(33.1)	27(9.2)
		Self employed and housewife	7(17.5)	9(22.5)	2(5.0)	16(40.0)	6(15.0)
		Traditional rulers	0(0.0)	3(30.0)	0(0.0)	7(70.0)	0(0.0)

26	Most parents care little in social role training of their children	Civil servants and students	43(14.7)	112(38.2)	21(7.2)	95(32.4)	22(7.5)
		Self employed and housewife	8(20.0)	13(32.5)	2(5.0)	15(37.5)	2(5.0)
		Traditional rulers	1(10.0)	1(10.0)	0(0.0)	7(70.0)	1(10.0)
27	Few parent cares on how their children dresses when living the home	Civil servants and students	48(16.4)	137(46.8)	19(6.5)	68(23.2)	21(7.2)
		Self employed and housewife	9(22.5)	18(45.0)	0(0.0)	9(22.5)	4(10.0)
		Traditional rulers	1(10.0)	3(30.0)	2(20.0)	4(40.0)	0(0.0)
28	Most parents no longer save as good role models for their children	Civil servants and students	83(28.3)	123(42.0)	10(3.4)	59(20.1)	18(6.1)
		Self employed and housewife	12(30.0)	17(42.5)	1(2.5)	7(17.5)	3(7.5)
		Traditional rulers	1(10.0)	3(30.0)	0(0.0)	6(60.0)	0(0.0)

Source: Field Survey, 2014

The table x-rayed that 67 or 22.9% and 108 or 36.9% of the civil public/servants strongly agreed and agreed respectively that the family which is the first agent of socialization is not performing its functions as it is required. The self employed were in agreement as indicated in the table. Only 81 or 27.6% and 32 or 10.9% of the civil servant had a contrary opinion to this suggestion. Among the traditional rulers, the opinion was divided on the issue. Half of them agreed while the other half disagreed. Apart from the traditional rulers, the other two groups civil servant along with the self employed agreed that Most a times discipline of children by members of the society/ family friend result to conflict. And all the groups agreed that Social network as an agent of socialization has negative effect the socialization of the child. The traditional rulers however differed in their majority opinion on most children are left unguided and protected from the ills and vices in the society. While 72 or 24.6% and 118 or 40.3% of the civil servant along with 11 or 27.5% and 16 or 40.0% of the self employed strongly agreed and agreed respectively that most children are left unguided and protected from the ills and vices in the society, the 4 or 40.0% and 2 or 20.0% of the traditional rulers disagreed and strongly disagreed with the opinion. In the same vein, 58 or 19.8% and 117 or 39.9% of the civil servants along with 8 or 20.0% and 16 or 40.0% of the self employed strongly agreed and agreed respectively that the extended unlike before involves little in the socialization of the children nowadays. But 4 or 40.0% and 1 or 10.0% of the traditional rulers disagreed and strongly disagreed with this opinion. However, all the groups agreed that some parents are more interested in material acquisition to the detriment of effective socialization of children. This is clearly demonstrated in item 6 of the table. A further confirmation of the above statement is seen in item 7 where 117 or 39.9% and 108 or 36.9% of the civil servants along with 18 or 45.0% and 11 or 27.5% of the self employed strongly agreed and agreed respectively that few parents teaches their children the acceptable values and norms of the society. All the traditional rulers even agreed with this statement as indicated in the frequencies and percentages scores and depicted in the table.

Only the civil servant along with the self employed agreed that over protection is more depicted today in our modern society than proper training/ discipline of children in the family. The divergent opinion among the groups was relatively low as shown in the table. But 6 or 60.0% of the traditional rulers disagreed with this suggestion. In addition, the respondents did not agree that assimilation of foreign culture has greatly eroded our socialization process. It was only among the civil servants that the opinion was agreed. The self employed and the traditional rulers did not agree. On the question, school is no longer performing its function as agent of socialization, opinion was divided among the groups. As depicted on the table, 7 or 70.0% and 1 or 10.0% of the traditional rulers disagreed and strongly disagreed respectively that school is no longer performing its function as agent of socialization but 43 or 14.7% and 112 or 38.2% of the civil servants along with 8 or 20.0% and 13 or 32.5% of the self employed strongly agreed and agreed respectively. However, there was a consensus among the respondents as indicated in the table that few parent cares on how their children dresses when living the home. But only civil servants along with the self employed agreed that, most parents no longer save as good role models for their children. The traditional rulers did not agree that this scenario. From the assessment, it could be said that social change has negatively affected the socialization of children in Kaduna state but their adequacies would however be subject to statistical test in the related hypothesis of the study.

Table 4: Summary of one way Analysis of variance on challenges of social change on family values and norms in Kaduna state

Source	Sum of Squares	DF	Mean Square	F	Sig.	Decision Rejected
Between Groups	2.591	2	1.296	3.951	.041	
Within Groups	111.401	340	.328			
Total	113.992	342				

(F-critical=3.00, $P < 0.05$)

The result of the tests revealed that the respondents differed significantly in their opinions on challenges of social change on socialization of children in urban and rural area in Kaduna state. The observed F-values (3.951) for the test is higher than the critical value of 3.000. The observed levels of significance (0.041) observed for the tests is lower than 0.05 ($P < 0.05$). With these observations, there is sufficient evidence to reject the null hypothesis that there is no significant difference between civil servant, self employed and traditional rulers on the challenges of social change on socialization of children in Kaduna state. Table 4.13 presents the mean scores of the respondents by their statuses on.

8. DISCUSSION AND FINDINGS

The challenges of social change on family system in Kaduna state was investigated in this study. Two hypotheses were tested along the three variables. The variables were family life, norms and values. The first hypothesis tested for significant difference between the opinions of the groups of respondents on challenges of social change on family life in Kaduna state. The result of the analysis of variance procedure used for the test did not reveal significant variability in the opinion of the groups (civil servant/ students, self employed and traditional rulers) on challenges of social change on family life in Kaduna state. The null hypothesis was therefore retained. The findings affirm Ademilua (2013) McDonald (2000) & Ruether (2000) that, the family system in Nigeria is facing a lot of challenges which include domestic violence; economic hardship; change in family function and size; birth outside wedlock; poor parenting and socialization; child abuse and neglect; insecurity; divorce among other and this could attributed to socio-economic changes accompany by poverty; departure from the conventional family structure of the nuclear and extended family types; gradual decline of the extended family support ; health factors, infidelity and psychological factors.

The second hypothesis tested for significant difference in the opinion of the groups. The result indicated that the groups were significantly different from each other in their opinion on the challenges of social change on the socialization of children. The null hypothesis was therefore rejected. The findings of study agreed with Aliyu (2013) that media especially, the foreign effect the socialization of children; change in family resident which is as a result of modernity and urbanization has also lead to fault in the socialization processes. He also stated further that, parents are no longer models to their children and martial homes are facing problem resulting from poor social role training. From the analysis of the data collected for this study, the major findings made are summarized below:

- i. The study revealed that, social change has lead to domestic violence; difficulties in family interaction and caring; increase in financial difficulties has resulted in abuse and neglect of the child; increase in cases of divorce; increase in orphans and child-headed families due to religious conflict, terrorist attack, HIV/AIDs and other deadly disease that attacks the family head; decrease in family size due to use of modern family planning methods and as well, the rampant and uncontrolled watching of foreign satellite channels has negatively affected the behaviour of the children in the family.
- i. The study revealed that, the social change has affects socialization of children leading to problems such as indiscipline among children; the media which is an agents of socialization affects the character of children negatively; the children are left unguided and unprotected from the ills and vices in the society; the extended family involves little in the socialization of the child; there is quest for material acquisition to the detriment of effective socialization of the children; over protection has replaced proper training/ discipline of children; foreign culture has effect the socialization process of the children; poor social role training, and indecencies in dressing among youths due to socialization problems.

9. IMPLICATIONS FOR SOCIAL STUDIES EDUCATION

According to Tikumah (2009) Social Studies is “an integration of experience and knowledge concerning man’s relations for the purpose of citizenship education, meaning that, Social Studies is the type of learning that aims at creating a free society of responsible and responsive citizens by imbuing them with desirable attitudes and values as well as appropriate mental and physical skills and abilities for meaningful living and interaction in the family and social world. Furthermore, social studies as an effective instrument for curbing the challenges of social change on the family system in Kaduna state can be ascertain by the affirmation of Ololobou (2007), that a typical Social Studies programme must encompass four cardinal objectives, viz a viz the environment, the various skills, values and attitudes and emerging issues resulting from social, political, economic and technological/science changes. That is why Bayero (2007) stated that, social Studies should be thought of as the sum of learning derived from the various aspects of human thought and experiences for the purpose of solving ‘man’s interminable problems. These endless problems include family/marital challenges resulting socio-economic changes, insecurity, injustice and many more in contemporary Nigeria society. There are several social factors at play in couple’s lives to make the family system stable. Social studiesshould create awareness of these factors through school system. As such social studiesshould be taught in way of preparing the children for family life in the. Issues to be emphasized in the curriculum should include building marital security and enduring affection, issues bordering on societal values, sexuality, family cooperation, building emotional, economic stability, need to avoid unplanned marriages, financial, emotional and maturity before marriage, realistic approaches to problem solving and interpersonal social conflict. (Omobola 2013 & Maisamari, 2006).

Issues bordering on individuals personality and image making, individual self control, restraints, tolerance, other related issues to family stability should be well emphasized in the social studies teaching which include financial management and budgeting, respect for each other, compatibility of partners, and stress management. The need to reach the age of maturity and freedom of choice of life partners should form themes for social studies curricular in teacher education. Social studies should also play a rehabilitative role by helping to rebuild families which are already disintegrated. This is because of failure in marriage, many spouses turn into alcoholics, drug addicts, prostitution, murderers, and armed robbers, other have neurotic tracts with mental disorder characterized by a combination of anxieties, compulsions or find it difficult to make satisfaction, adjustment in any human relation. Teaching of cultural norms and values of the Nigerian society through social studies should emphasize than it is now because this will help in imbuing the desired family norms and values for building a stable and happy family in the society.

Social studies also, aim at imbibing in learners the skills to communicate well and to show understanding, love and care, honesty and sincerity, positive thinking, forgiveness, tolerance respect and also to appreciate one another and acknowledge with gratitude the contribution of each other to the family, willingness to mediate and to compromise that would serve as a strategy for resolving problems affecting the family.

10. CONCLUSION AND RECOMMENDATIONS

The study investigated the challenges of social change on family system and the role social studies can play in minimizing the problems. The findings from the study confirmed that social changes has eroded the family system and socialization process which has lead to anomaly in the society. To curtail the challenges therefore, social studies education must emphasize the teaching of those acceptable societal values and norms that are vital to continuing human existence and effective social interaction within the family system as well as strengthening school socialization. For social studies education to minimize this problem effectively, the following are recommendations;

- i. Government should introduce the teaching of social studies at senior secondary school level this will help in equipping the adolescents with the vital skills of family life because most of them may not have the opportunity for furthering their education or read social studies as a course at tertiary level.
- ii. The government through the curriculum planners/reviewers should endeavor to infuse themes relating to family life/system in subjects taught from primary to higher level because social studies only is not sufficient in equipping the learners with all the need skills for family life/

values and as well as participating actively in school socialization since that is not the only focus of the subject.

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PEER EDUCATION, AND SUBSTANCE ABUSE BY ADOLESCENTS IN NIGERIA: COUNSELING AS AN ALTERNATIVE STRATEGY

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ABSTRACT

This study was undertaken to find out how peer education can be used as a counseling strategy to minimize substance abuse among adolescents in Nigeria. Secondary data were used, and the study was comparative descriptive in nature. The findings indicated that peer education is an effective method for increased HIV knowledge and reduced drug injection; it also has a positive effect on reduction of equipment sharing. The study also showed that there are over 1.2 billion adolescents around the globe. In US alone, about 23.9 million adolescents engage in illicit drug use which is equivalent to 9.2% of their population. In Nigeria also, the North West zone represents the highest number of substance abusers with 37.47 %, while the least zone was north east representing 8.54 %. The males in Nigeria represent the highest drug abusers with 94.2 %, while the females took the remaining 5.8 %. Peer education can therefore be used by Counselors in schools, hospitals, rehabilitation centers, the prisons and all centers where counseling services are offered, so as to reduce this global phenomenon from our societies as it is doing in on other issues (HIV/AIDS). It is assumed when this is achieved, other prevailing issues like unemployment, thuggery, hooliganism, vandalism, robbery would also be minimized to the minimum.

Key words: Peer education, Substance abuse, Counseling, Adolescents.

1. INTRODUCTION

Drug and substance abuse is a global phenomenon which attracts the attention of the developed and the developing nations. Many policies and programs were introduced to minimize its use as well as rehabilitate the abusers so as to free the society from its menace. Despite these policies and programs, substance abuse continues to increase especially among the adolescents in Nigeria. Realizing the role counseling can play in the attitudinal and behavioral change of individuals, peer education as a strategy for bringing behavioral change among peers is believed can play a significant role towards overcoming this global issue. To guide the reader in this trend, peer education, its theories, selecting and training of peer educators and its challenges were looked into. In addition to that, substance abuse, reasons why adolescents abuse drugs and the type of drugs abused by the adolescents in Nigeria were reviewed.

2. LITERATURE REVIEW

2.1 Peer Education

USAID/Project research (2000) defined peer education as a strategy whereby individuals from target groups provide information, training, or resources to their peers. These groups can be determined by social or demographic characteristics e.g. age, education, type of work or by risk taking behavior e.g. injection drug use, commercial sex workers, etc). According to USAID/Project research, peer education is an effective channel of passing information to hard-to-reach populations. It is an effective method in terms of increased H.I. V. knowledge, and reduced injection drug equipment sharing.

Medley, A et al, (2009) sees peer education as sharing of H I V/Aids information in small groups or one-to-one by a peer matched, either demographically or through risk behavior to the target population. Hence, peer education indicates that it is a strategy of showing information among peers who show common demographic characteristics e.g. age, or gender either on one-to-one, or in small groups. It is carried out with the sole aim of creating self awareness in them so as to facilitate positive behavior change among members of age group. It is believed that peer education can work comfortably on sensitive

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issues among themselves, because it is assumed they have level of trust and comfort. In the study they conducted, they were able to find out that on H I V knowledge (**1999 and 2000**), peer education had a moderate but positive effect on this outcome. On the study on equipment use conducted in **2001**, their findings indicated a significant reduction in equipment sharing. In **2000, 2003, and 2004**, the study indicated that after giving the intervention, the result showed an increase following peer education programs. However the variations in the above findings may be due to variations in evaluation methods, context, or the peer educators themselves.

Peer education is therefore seen as an approach, a communication channel, a philosophy, and a strategy.

2.2 Theories of Peer Education

Among the theories of Peer educations are;

- ***Social learning theory (Bandura, 1986)***; in this theory Albert Bandura believes that people serve as models of human behavior, and some people are capable of eliciting behavioral change in certain individuals.
- ***Diffusion innovation theory (Rogers, 1983)***; in this theory, Rogers is of the opinion that certain individuals, (opinion leaders) from a given population acts as agents of behavioral change by disseminating information and influencing group norms in their community.
- ***Theory of reasoned action (Fishbein and Ajzan, 1975)***; The founders of this theory were of the belief that one of the influential elements for behavioral change is an individual's perception of

Social norms or beliefs about what people, who are important to the individual, do or think about a particular behavior.

2.3 How to Create an Effective Peer Education

According to AIDS control and Prevention (AIDSCAP), organizing peer education to address societal issue can be useful and powerful. However, before using it as an intervention alternative, the following questions should be asked by the organizers; what are the goals of the project? Who is the target audience?; will it be possible to attract and maintain interest and support for this project from opinion leaders, and influential people in the target community? If yes then peer education can be used. However if the answer is no, another strategy should be used. What will these peer educators need to do? Can the project provide the followings; initial training, refresher training, educational materials, supervision, and meeting space? How large is the target group? How many peer educators will be needed to reach the target audience? Can the project train and support that many peer educators? Will the peer educators need incentives? If yes, what type? E.g. salary, paid expenses, meal allowances, bicycles, special badges or awards. Can the project provide these incentives? How many staff members will be needed to help train and supervise the required number of peer educators?

To conduct a successful peer education project, there is need to organize activities such as ; informal small group discussions, formal group discussions about substance abuse, organize meetings and educational sessions, hold regular meetings, distribute educational materials, display posters, perform dramas, and organize sports events. Among the activities of peer educators involves engaging on one-to-one talk with clients, providing individual counseling; recommend or refer peers for rehabilitation, as well as organizing visits to rehabilitation centers where drug users are kept (AIDSCAP,UNDATED.)

Organizing a successful peer education project requires the organizers to consider the following when selecting peer educators; Ability to communicate; Good interpersonal skills including listening skills; They should have similar socio-cultural background similar to that of the target audience (sex, age, social class);They should be accepted and respected by the target audience; They should have respect for the target audience; Must have confidence and leadership qualities; They should have time and energy to devote to this work

After selecting the appropriate peer educators that match your requirements, you should then make arrangement for their training. The training can be in the form of half day sessions, full day sessions, an entire week, or more. During the training, peer educators should be helped to improve the way they approach peers, present information and provide support for behavior change. Written or oral exam should also be conducted to evaluate the ones who can participate in the program. The training should be

centered on issues relating to substance abuse viz; The role of peer educator; Basic facts about substance abuse; Attitudes and values people have about substance abuse; How to reduce substance abuse; What put their peers at risk of substance abuse; Information about substance abuse; Effective communication including approaching a peer and being in a dialogue, active listening, talking to groups, maintaining confidentiality, and record keeping skills, (AIDSCAP, UNDATED).

2.4 Supervision

To ensure peer educators execute their duties diligently, there is the need for supervision. Among the technique of supervising peer educators are one-to-one visits with peer educators to observe them and answer their questions; Group meeting to resolve common problems; and evaluating peer educators' performance, etc.

To organize a successful peer education, the following tips and challenges need to be considered; Identify and meet with influential leaders of the intended target audience; explain to them your plans, and ask for their opinions and advice, and; Invite them to be your guest speakers.

Among the challenges of organizing and conducting peer education program includes the followings; peer resistance; lack of time, lack of space to hold meetings, and financial constraints (AIDSCAP, UNDATED)

2.5 Adolescence

Spano, S (2004) sees adolescence as a stage of great change for young people. It is also a time of rapid physical changes. In addition to that, adolescents also experiences cognitive, social/emotional and interpersonal changes. Adolescent period is a transition period from child hood to adult hood. He went on to categorize the feelings and behaviors of adolescents into 5 categories; moving towards independence, future interest and cognitive development, sexuality, physical change, and lastly, Ethics and self direction.

This period has been thought of as a period characterized by good health. However, millions of adolescents face significant challenges that can result in physical, emotional, and social morbidities. These challenges include high risk behavior like alcohol, tobacco, and other drug use (**bright future, undated**).

According to **UNICEF (2012)**, there are about **1.2 billion** individuals aged 10- 19 years around the world. The **UNICEF** provides the statistics of the world adolescents in categories. The statistics is presented in the following table;

S/N	Location	Statistics
1	Industrialized Countries	115 Million
2	Latin America and Caribbean	108 Million
3	Central and Eastern Europe/Common wealth of Independent States (C.E. E./C. I. S)	55 Million
4	Eastern and Southern Africa	92 Million
5	West and Central Africa	94 Million
6	Middle East and North Africa	82 Million
7	East Asia and Pacific	122 Million
8	South Asia	90 Million
9	India	243 Million
10	China	241 Million

Source: Secondary Data, (UNICEF, 2012)

2.6 Substance Abuse

The issue of drug or substance abuse is a global phenomenon which is rapidly becoming a global problem. United Nations Office of Drugs and Crime (2007) indicates that the problem of drug abuse poses a significant threat to the social, health, economic fabrics of the family, and the entire nations. In fact almost every country in the world is affected from one to or more drug being abused by its citizens

which leads to increase in crime rates, increase in Hepatitis B and C Virus, H I V/AIDS, etc (UNODC, 2007)

Mamman, H et al, (2014) cited Lakhapal and Agnihotri, (2007) who define drug abuse as arbitrarily over dependence or misuse of one particular drug with or without a prior medical diagnosis from qualified health practitioners. **Oluremi, (2012)** sees drug abuse as the harmful use of mind altering drugs

NIH (2014) indicated that in 2012, an estimated 23.9 million Americans aged 12 or older, or 9.2% of the population used an illicit drug or abused a psychotherapeutic medication. According to World report on drugs (2014), globally about 162 million people aged between 15- 64 had used illicit drugs. UNICEF (2011) also reported that West Africa has become a major transit and repackaging hub for cocaine following a strategic shift of Latin American Drug syndicate towards the European market, and this was possible because of lack of governance, endemic poverty, instability and ill equipped police and judicial institutions.

Abudu, (2008) also cited that in Nigeria the impact of drug abuse among Nigerian adolescents has been a feature of a morally bankrupt, corrupt and wasted generation and loss of our societal values and ideals. In Nigeria, W H O mentioned that 22.1 % of Youth age between 12-17 uses Tobacco. Abudu (2008) went on to explain that drugs are everywhere in Nigeria including motor parks, street corners, joints on Campus, uncompleted houses, under fly over, etc. Akanan (2008) provided the statistics of drug abuse in Nigeria according geographical zones; North West was the first with 37.47 % of people who abuse drugs in Nigeria. South west is the 2nd with 17.32 %, followed by south East with 13.5%, and then North Central with 11.71% and North East zone has 8.54 %. UNODC highlighted that among the drug users in Nigeria, 94.2 were males, while the remaining 5.8 % were females.

S/N	Geographical Zone	Rate in Percentage
1	North West	37.47 %
2	South West	17.32 %
3	South East	13.5 %
4	North Central	11.71 %
5	North East	8.54 %

Source: Secondary Data (Akanan, 2008)

2.6.1 Drug abuse by Adolescents

Among the reasons enumerated by NIDA (2014) on why Adolescents take drugs includes; To fit in: Adolescents take drugs because they see others are taking I, and the fear if they do not take it, they may not be accepted among peer; To feel good: Some adolescents believe that if they take drugs, they will feel good, hence when they experiment it, the neuro chemistry of the brain produce feeling of pleasure; To feel better: Depression, anxiety, stress and physical pain are some of the reasons why adolescents consume drugs so as to feel better from their worries; and this leads to continuing drug use; To do better: In other circumstances, adolescents engage in drug abuse when they are confronted with a competitive environment. The pressure of hoping to do better academically or in some physical activities warrants the adolescents to become substance abusers, thinking that they would do better; To experiment: Adolescents stage is a period of experimentation of experimentation of new ideas, views, or ideologies, and this motivate some to experiment so as to seek new experiences. (National institute on drug abuse, 2014)

Among the drugs abused by the Nigerian adolescents includes; tobacco, Indian hemp, cocaine, morphine, heroine, alcohol, ephedrine, madras, caffeine, glue, barbiturates, and amphetamines (Oshodi, Aina, Onajole, 2010)

S/N	Drug/Substance	Estimated Life Time Consumption
1	Cannabis	10.8 %
2	Benzodiapines and Amphetamine Stimulants	10.6 %
3	Heroine	1.6 %
4	Cocaine	1.4

Source: Secondary Data (UNDOC, 2007)

3. THEORETICAL PERSPECTIVE

The study was anchored on social learning theory of Bandura (1986) which believes that people serve as models of human behavior, and some people are capable of eliciting behavioral change in certain individuals.

4. METHODOLOGY

Comparative descriptive method was used by the researchers using secondary data from books, journal articles, and the internet.

5. FINDINGS

From the literature consulted by the researchers, the following findings were made:

- **Medley, A, et al, (2009)** Peer education is an effective method for increased H I V knowledge, and reduced drug injection, and also a positive effect on reduction of equipment sharing. Therefore since increase in knowledge can minimize the dangers of H I V/AIDS infection viz-a-viz, peer education can also be used to minimize substance abuse among adolescence in Nigeria.
- **Bandura (1986)** believes that some people are capable of eliciting behavioral change in certain individuals. Peer education being provided by people of the same age brackets could be the appropriate strategy for assisting the adolescents to realize the dangers they are in so that they could avoid it.
- Millions of adolescents face significant challenges that can result in physical, emotional, and social morbidities, therefore when adolescents are enlightened on these dangers through peer education, millions of them could also be protected from such dangers.
- According to UNICEF, (2012) there is about 1.2 billion individuals' age 10-19 years around the world, and therefore it is the duty of both the government and the counselors to see that their lives are protected from substance abuse.
- Among the consequences of substance abuse includes increase in crime rates, increase in Hepatitis B and C virus, and H I V/ AIDS, etc, therefore when adolescents are made aware of these dangers, they can distance themselves away from these diseases.
- Globally, about 243 million people aged 15-64 had used illicit drugs, so if peer education can be used these number can be reduced, and dangers associated with illicit drugs could be avoided.
- West Africa is now a major transit and repackaging hub for cocaine, and with peer education this could be seriously addressed to.
- In the U S, about 23.9 million people aged 12 or older engage in illicit drug use i.e. 9.2% of the population used illicit drug or abused a psychotherapeutic medication. Therefore, peer education can be used to save the lives of these people so that they can lead a healthy and productive life.
- In Nigeria drugs were everywhere including motor parks, street corners, joints on campus, uncompleted houses, under flyovers, etc.
- The statistics of drug abuse in Nigeria indicated that North West Zone is the highest with 37.47%, while the North East is the least with 8.54%, it is the assumption of the researchers that peer education this percentage will drastically reduced.
- In Nigeria, males were the highest drug users representing 94.2 %, while the females carry 5.8%. Male peer educators could therefore be used to make their peers understand the adverse effects of substance abuse, and how to overcome them.

6. CONCLUSION

The researchers are of the belief that substance abuse is an act that affects attitudes and behavior of individuals; and peer education as a strategy of bringing behavioral change among the peers can be used by counselors to foster positive self awareness in their clients which can lead to behavioral change. These behavioral changes among the adolescents can lead to reduction and minimization of substance

abuse by the Nigerian adolescents, and viz-a-viz reduction in societal crimes which can ultimately lead to the betterment of the society.

7 RECOMMENDATIONS

- All factors (unemployment, educational opportunities, and social amenities) that encourage substance abuse among Nigerian adolescents should be appropriately addressed to by the government, and the influential members of the society.
- The government and the public should join hands together in mass public awareness on the dangers associated with substance abuse.
- Rules and regulations on drug use should be formulated taking into consideration of the context and needs of the society.
- An appropriate and effective drug law enforcement agency should be established, and managed by nationally recognized decent and incorruptible individuals.
- Community leaders should be enlightened on the benefits of peer education to their communities, and their cooperation should be solicited.
- Counselors should be given refresher courses on peer education strategy for counseling
- A good and conducive atmosphere should be provided so that peer education can be promoted to volunteers in such projects.
- Financial intervention should be given by the government and wealthy individuals to counselors on activities that could encourage and promote use of peer education to minimize substance abuse among adolescents in Nigeria.
- All factors that promote substance abuse among Adolescents like Unemployment, lack of educational opportunities, social amenities, etc should be appropriately addressed to by the relevant bodies.
- Peer education being an effective strategy for increasing knowledge on H I V/ AIDS, dangers of equipment sharing, and others sexually transmitted diseases, could also be used as an alternative strategy by counselors to create awareness in Nigerian adolescents towards minimizing and control of substance abuse in Nigeria.

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ECOTOURISM MARKETING AND WELFARE OF THE HOST COMMUNITY IN DOGUWA LOCAL GOVERNMENT, KANO STATE, NIGERIA

By
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ABSTRACT

This study investigated the ecotourism marketing and welfare of host community in Doguwa local government, Kano state, Nigeria. Specifically, the study intended to: (1) to determine the level of Ecotourism marketing in Doguwa local government (2) to determine the level of welfare as a result of ecotourism marketing; 3) to establish if there is any significant difference in welfare as a result of ecotourism marketing and (4) to establish if there is any significant relationship between Ecotourism marketing and welfare of the host community: ex post facto, descriptive comparative and descriptive correlation designs were employed. The data were analyzed at univariate level, using relative frequency counts and summary statistics, at bivariate level using t- test, and Pearson's product Movement Correlation Coefficient, and at multivariate level regression analysis. The findings revealed absent of relationship between welfare improvement as a result of ecotourism marketing (sig = 0.272). This was due to ineffective media exposure, inadequate infrastructure and facilities, high cost, poor negative image and capital repatriation to core nations. It had concluded that the sub sector need to be supported and developed by all the stakeholders for the benefits to be accrued to local community, by given special consideration to the elements of marketing mix. Anchored on the findings, the study recommended that both government and private sector should collaborate with local community in promoting and creating conducive atmosphere for ecotourism development and marketing, in terms of availability, accessibility, affordability and conservation of infrastructures and superstructures, without which, it is unlikely that the industry could achieve its effective capabilities.

1. INTRODUCTION

Despite the global economic challenges during the past few years, today ecotourism has emerged as the fastest growing industry in the world with its positive impacts reaching out to so many sectors of the economy. it played significant role in the economic growth and development of many countries in the world, manifested in an improvement of the welfare of their citizens . This was evidenced in the generation and support of global workforce of 260 million jobs and 11 % of global Gross Domestic Product in 2013 respectively. In addition, worldwide tourism grew phenominally from 25 million arrivals in 1950 to more than 1,087 million in 2013, and forecast to reach 1.8 billion by 2030. (Cooper, Fletcher, Fyall, Gilbert and wanhill, 2005; United Nation World Tourism Organisation, 20021; 20132; World Travel and Tourism Council,2003 and 2013;).

However, Nigerian economic statistics revealed a puzzling contrast between rapid economic growth and quite minimal welfare improvement for much of the population. As reported by World Bank (2013), Nigerian economy has been growing on the average of 7% for the past decade which place the country among the fastest growing economies in the world. Nonetheless the recent economic growth does not keep in pace with income, employment, population and welfare standard for the majority. As a solution, ecotourism marketing is increasingly viewed as an important tool in improving the welfare of the host communities in an ecotourism blessed environment.

Similarly, ecotourism was widely acclaimed generating multitude of beneficial effects upon Such economic indicators as foreign exchange earnings, balance of payment, income to the local people, employment, government revenues and other multiplier effects leading to an improvement of living standards (Holloway, 1996 and Sinha, 1997).). This was evidenced in many studies in both developed and developing countries such as Wuleka (2012); Ezebilo (2010), (2013) Samini (2011), and Word Bank (2013), However, Bello, Onyemusi and Idumah (2014) assert that Nigeria is eminently and abundantly blessed with numerous ecotourism resources, although very few of them are being exploited, but if properly harnessed, can generate a lot of revenue to government as well as be viable source of employment and means of livelihood to the local people. This explains, despite the unprecedented phenomenal growth of Ecotourism in global economy and its positive impacts on the welfare of host communities on many countries, its performance in Nigeria and Kano in particular is below expectation (Tourist, 2004). Therefore, to effectively operate and exploit such a business for the improvement of

welfare standard of the local community, management skills, such as marketing competency, is necessary for its development, continued success and patronage.

2. REVIEW OF RELATED LITERATURE

2.1 Ecotourism

Ecotourism is defined as “responsible travel to natural areas that conserves the environment, educate the tourist, respect the integrity of local communities, enhances the tourist’s understanding of the natural attraction, its conservation and the local community, and contributes to their welfare. Thus, Ecotourism is a whole range of individuals, businesses, organizations and places which combine in some way to deliver a travel experience (Cooper et al, 2005; Mubaya (2013) and Seth , (1999) and Sinha 1997). Unlike developed countries where private entrepreneurs play important role in complementing government efforts by building hotels, restaurant, shops, transportation, entertainment etc and ensure the effective marketing of these facilities, in developing countries, most private investors are running away from this expected responsibility as a result of high risk involved (Cooper et al, 2005; Sinha, 1997; and Sinha, 1999).

Similarly, attractions are what motivates people to travel. For these attractions to survive and flourish, other elements of the ecotourism product must also be on offer at a destination, at appropriate level of quality, promotion and price. For instance, in Nigeria, the country posses only two five star hotels located in Lagos and Abuja. In addition, even the other existing available hotels are owned by foreign investors and mostly, very expensive. This was anchored by Briedenhann and Wickens (2004), and assert that the problem of ecotourism in developing countries is inadequate infrastructures and facilities. This is even more pronounced in Nigeria, and especially in Kano State, where the dearth of infrastructure is compounded by the inability to maintain the few existing ones. More so, most of the existing available infrastructures are located at major cities and urban areas. Therefore, the rural areas where most ecotourism attractions are located, and also where the tourism is expected to have its most impacts on economic growth and welfare of host communities, are lacking in these amenities and necessary infrastructures and superstructures for ecotourism development (Tourist, 2004) .

Many studies conducted found a positive correlation between ecotourism marketing and improvement in welfare standards of host communities. Studies such as; Isaac, Conrad and Wuleka (2012); Ezebilo (2010), Idumah, Onyemusi, and Bello (2013) Samini (2011), Dorcas and Ebonha (2014) and Word Bank (2013), inferred ecotourism marketing improves the welfare standards of the host communities through income and employment increase, population increase and poverty reduction. These were strengthened by Taylor and Hardner (2014) and affirm that ecotourism has greatest pro poor impact on rural communities, because customers were patronizing the attractions, creating room for direct sell, thus fostering the creation of economic multiplier effect, leading to an increase in income and employment to host community, and subsequent improvement in their entire living standard.

However, in other similar studies such as Bankole (2002), World Bank (2013) and Taylor, Hardner and Stewart (2006) depict contrary results. While the total income of the Galapagos increased by an estimated 78% between 1999 to 2005, placing Galapagos among the fastest growing economies, the total employment also increased, but these did not significantly improve the living standards of host community due to migration from other areas, which resulted in population growth and subsequent reduction in income per capita. More so, in another similar study by Bankole (2002), revealed three important findings: 1) the demand for local ecotourists attraction in Nigeria is very low, 2) there is growing Nigerian demand for foreign tourism and 3) foreign demand for domestic ecotourism is also very low.

2.2 Marketing

Marketing is the total system of business activities designed to plan, price, promote, and distribute want- satisfying goods and services to present and potential customers(Stanton,1994). Similarly, it is an organisational function and a set of processes for creating, communicating, and delivering value to customers and for managing customer relationships in ways that benefit the organization and its stakeholders (Futrell, 2008).

2.3 Ecotourism Marketing

Ecotourism marketing is a way of looking at the entire ecotourism industry from the viewpoint of ecotourist customers through planning, pricing and promoting ecotourism destinations to prospective tourists. As a result of competition, for a tourism attraction to be sustainable, destinations and tourism entities must pay special attention to the ecotourism marketing mix elements due to its peculiar nature of intangibility. Therefore, a key to its success is good management and marketing (Sinha, 1997). This was anchored by Kotler (2003) who asserts that for ecotourism destinations to compete successfully, destinations often need to structure their business and marketing practice in response to significance changes in the business environment, such as globalization, deregulation, internet, etc.

2.4 Traditional Marketing and Servicing Mix

Developing ecotourism marketing and attractiveness of destinations requires application of diverse approaches of marketing mix that an organization controls to fit the needs and preference of a specific target market, using five Ps: Product, price, place (distribution), promotion and people, (Zeithaml, 2006).

Product: Ecotourism product is a composite in nature and includes everything a visitor purchases, sees, experiences and feels from the time he leaves home until the time he returns. It comprises accommodation, transportation, sightseeing, guide services, entertainment, advertising and marketing, financial service and infrastructures. A key to success is the ability to market one's product or service effectively (Seth, 1999 and Berry and Wilson, 2004).

Price: This is the rate and time lost at which the ecotourism product can be sold (Lamb, Hair and McDaniel, 2004). Pricing is an important in meeting ecotourist demands and satisfying your profit margins, considering different strategies, such as selling at, below, or above the current market price. This must also be consistent with other options such as penetrating, skimming, cost plus, etc (Kotler, 2003).

Place: This is means of getting the ecotourism information and easy access of ecotourism destination by the prospective ecotourist customers. (Kotler, 2003).

Promotion: These are marketing communication activities which have as their purpose the actual sales of goods and services through promotional mix. It comprises advertising, Personal Selling, sales promotion and public relation (Wamke and Palmer, 1985).

2.5 People

These are all human actors who play a part in service delivery such as the firm's personnel, the customer and other industry's stakeholders. Ecotourism being a composite product and people's business, requires the consideration of different market groups which must be managed to produce satisfied ecotourist customer (Solomon and Stuart, 2003).

2.6 Null Hypotheses

The null hypotheses tested in this study contended that (i) There is no significant difference in improved living standard as a result of ecotourism marketing; (ii) There is no significant relationship between Ecotourism marketing and improvement in living standard in Doguwa local government, Kano state, Nigeria.

3. METHODOLOGY

Employing the ex post facto, descriptive comparative and descriptive correlation strategies, the data were collected using combination of standardized and non standardized questionnaires with items on ecotourism marketing and welfare of host community, using a minimum sample size of 110. The Cronbach's Alpha coefficient test indicated the questionnaires were acceptable at above 0.5 (0.806). The data were analysed using summary statistics such as means, standard deviation and ranks. The null hypotheses were tested using t-test, Pearson's product correlation coefficient and regression.

4. FINDINGS

Summary Tables on Demographic Characteristics of the Respondents

Table 1

Gender		Frequency	Percent
	Male	72	64.9
	Female	38	34.2
	Total	110	99.1
Total		110	100.0

Source: Primary Data 2015

The analysis reveals about 72 respondents, representing 65% were males. While remaining 38, representing 34 % were females. This shows that the majority of employees working in tourism related organization in Kano are males. Therefore, there is need by government in collaboration with private sector to support and empower more women to bridge this gender inequality.

Table 2

Nationality		Frequency	Percent
	Nigerian	79	71.2
	Foreigner	31	27.9
	Total	110	99.1
Total		110	100.0

Source: Primary Data 2015

The analysis reveals that 79, representing 72% of ecotourist were Nigerians. While remaining 31, representing 28% were foreigners. This is in conformity with Bankole (2002) who stated that demand for foreign ecotourism attraction in Nigeria is very low. Therefore, despite the fact that ecotourism provides the community with more income and foreign exchange to government respectively, there is need for government and private sector to embark on aggressive promotion to influence prospective ecotourist, both nationally and internationally.

Interpretation Guide

Mean Range	Respond Mode	Description	Interpretation
3.25-4.0	Strongly Agreed	Agree with no doubt	Very High
2.51-3.25	Agreed	Agree with some doubt	High
1.76-2.5	Disagreed	Disagree with some doubt	Low
1.00-1.75	Strongly Disagreed	Disagree with no doubt	Very Low

Table 3: Summary Table of Level of Ecotourism Marketing

Indicators	Mean	Interpretation	Rank
Total promote	2.2010	Low	5
Total price	2.4101	Low	4
Total product	2.8409	High	2
Total people	2.8409	High	2
Total place	3.0155	High	1
Grand Average Mean	2.6488	High	

Table 5 shows that among all the element of marketing mix, place, that is the attractiveness of the destination was ranked first. while promotion ranked the last. This was in agreement with Sinha (1997)

and Seth (1999)). Therefore, government involvement in ecotourism development, through active promotional policies and marketing strategies in Doguwa local government is necessary for ecotourist patronage, satisfaction, loyalty and repeat patronage.

Table 4: Summary of level of Welfare of Host community

Indicators	Mean	Interpretation	Rank
Total income	2.3051	Low	2
Total employment	2.8409	High	1
Grand average mean	2.5730	High	

Source: Primary Data

In table 4, both employment and income were ranked high and low respectively. This was in conformity with other empirical studies, such as Samini (2011), Dorcas and Ayeni (2014) and Word Bank (2013). Therefore, ecotourism plays a key role in improving the economic conditions of people in Doguwa local government, through generating more income and employment for their livelihood.

Table 5: T-test results to determine the significant difference between gender and types of travel

Indicators	Std. Deviation	Mean	Sig. (2-tailed)	t	95% Confidence Interval of the Difference	
					Interpretation	Decision on HO
Respondent's gender	0.477	1.3455	0.000	29.540	Significantly different	Rejected
Types of travel	0.460	1.3000			Significantly different	Rejected

Source: Primary Data 2015

Using t –test results tabulated in table 5 (sig =0.00), the null hypothesis of no significant difference was rejected. This was in agreement with Taylor, Hardner and Stewart (2006). Therefore, the government need to create more conducive environment through formulating policies that would encourage local community empowerment and involvement. This will enable them to have share in profit, participate actively in conservation and decision making.

Table 6: Pearson's Linear Correlation Coefficient to determine the significant relationship between Ecotourism marketing and welfare of host community

Variables	Mean	Std. Deviation	R value	Sig	Interpretation of correlation	Decision on HO
Ecotourism marketing	2.8482	0.56116	0.992	0.272	Not significant	accepted
Welfare of host community	2.8409	0.54260				

Source: Primary Data

Table 6 shows no relationship between ecotourism marketing and welfare of host community in Doguwa local government. This clearly demonstrates low demand of tourism from both local and international, and the capital repatriation in form of unequal exchange to core nations. The findings are partly in agreement with other the investigations such as Word Bank (2013) and Taylor and Hardner (2014). However, several other studies proved the present of relationship such as Isaac, Conrad and Wuleka (2012), Ezebilo (2010), (2013), Samini (2011), Dorcas and Ayeni (2014).

Table 7: Regression Analysis between the Dependent and Independent Variable (Ecotourism marketing and welfare of the host community) (Level of Significance= 0.05).

Variables Correlated	R value	Adjusted R2	Mean Square	Sig.	Interpretation	Decision on Ho
Ecotourism Marketing and welfare of Host Community	0.992	6.544	0.984	0.00	Significant effect.	Rejected

Source: Primary Data

Though the extent to which the variables are not related was demonstrated at table 7 (R value =0.992). This was affirmed by World Bank (2013) and Taylor, Hardner and Stewart (2006). . Therefore, tourism sector in Doguwa local government need to be supported by all stakeholders, in developing right ecotourism product, pricing it appropriately, and using appropriate promotional strategies to persuade both local and international prospective ecotourist.

5. CONCLUSIONS

The study found no significant relationship between ecotourism marketing and welfare of host community in Doguwa local government thus, alternate hypothesis was rejected. The extent to which variables are not related was demonstrated in table 7 (R = 0.992), which proved the dependency theory of classical economic's propositions propounded by Sandra Ball Rokeach and Melvin DeFleur (1976). This was supported by Bello et al. (2014), Hall (2007) and Smith (2007). Therefore, for ecotourism benefits to be accrued to local community, community, government in partnership with private sector should collaborate with local communities on ecotourism development and marketing for the provision of necessary infrastructures and facilities to persuade and influence the behavior of prospective ecotourist customers, through offering right ecotourism product at appropriate price, and using most effective promotional strategies.

6. RECOMMENDATIONS

Based on the findings of the study, these are recommended:

1. Government, private sector and communities should actively be involved in ecotourism development, marketing and promotions to persuade prospective ecotourists.
2. Private sector should partner with government at different level to provide appropriate infrastructures and facilities, to make more enjoyable travel experience at reasonable cost to ecotourists.

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MEETING THE EDUCATIONAL NEEDS OF PERSONS WITH GIFTEDNESS AND TALENTEDNES

By
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ABSTRACT

Underachievement is of great concern to most experts in the area of gifted education; efforts to halt the cycle of underachievement must begin early. Special education services and facilities may enhance the potentialities of gifted students because of their significant high-ability to learn more rapidly and to understand more abstract and complex ideas, they are also be able to transform existing knowledge into new and useful forms, and create new knowledge recognized for its originality, complexity, and elegance. However, considerable evidence suggests that regular classroom teachers do not receive the training and support to appropriately modify the curriculum to meet the needs of gifted students. This paper may inadvertently be a guide for the teachers who are trying to meet the needs of children with a wide range of abilities and interests, and at the same time the inhibiting creativity to those children with high intellectual potentialities in order to manage their divergent thinking through different educational opportunities and placement options.

Key words: Gifted and talented individuals, causes, characteristics, and educational intervention

1. INTRODUCTION

Gifted individuals possess unique intellectual abilities that can be developed into talents, concerted efforts to help such students truly make a difference, one challenge facing educators and put in place a consistent array of educational options that will facilitate each individual's development. Education of Gifted students is an area in the field of Special education, concerned with the instruction of students who have exceptionally high academic abilities. Gifted individuals are not handicapped by any lack of ability, they can be handicapped however by either "negative attitudes about them, and or the assumption that they do not need special services to reach their full potential and develop their talent". Educators believe that gifted students require education services because their learning needs differ significantly from those of the general population. The controversy over that it was the influence of nature or nurture on the development of giftedness and Talentedness was an issue that reflected differences in intelligence in these children. Therefore, in looking for the causes or why individuals differ in intelligence, a major issue was the relative contribution of genetics (nature) and the environment (nurture).

Different opinion exist on how to define Gifted and Talented persons, and special educators confronted each other because of their different perceptions and conceptions of the ingredients that make for giftedness and Talentedness. These are among the numerous accepted definitions of today; U.S. Department of Education describes "Giftedness" as exceptionally advanced performance or the potential for outstanding performance in intellectual, creative, leadership, artistic or specific academic fields. Federal Government of Nigeria (1981) recognizes the definitions of giftedness that are based on IQ when it explains that "Children are said to be intellectually gifted if their cognitive power when developed qualify them to become high level innovators, problem solvers, leaders or perpetrators in the complex society in which they live. Therefore, giftedness is construed as potential for high performance and accomplishments at the upper end of any talent continuum. While Talentedness restricted to a special area such as language, music, grammar, arts or poetry, it possess special aptitude in some special fields. Talent development consists of the efforts of families, a teacher, peers, and mentors to help students develop their aptitudes into outstanding abilities and achievements. But according to Renzulli (1978) proposed the "three ring" definition of giftedness which defines gifted behaviors rather than gifted individuals, is composed of three components as follows: Gifted behavior consists of behaviors that reflect an interaction among three basic clusters of human traits, above average ability, high levels of task commitment, and high levels of creativity. Individuals capable of developing gifted behavior are those

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possessing or capable of developing this composite set of traits and applying them to any potentially valuable area of human performance.

2. HISTORICAL DEVELOPMENT OF GIFTED EDUCATION

The history of gifted education started as early as 3000 B.C. when the Egyptians sent the best students (along with royalties) to court schools or assigned mentors to work with them in intensive internships to develop their talents (Hunsaker, 1995). But according to Jatau, Uzo, & Lere (2002) history of gifted education took its origin from the effort of Plato who articulated the provision of specialized form of education for children with superior intelligence in order to ensure the success of his Athenian democracy. In Japan between 1604 and 1868, children born of the samurai novelty were given a differentiated curriculum consisting of Confucian classics, martial arts, history, moral values, calligraphy, and composition. The children of the poor, however, were taught the value of loyalty, obedience, humility, and diligence (Rimm, 2001). In Western cultures, Smith (2007) cited Clark (2002) saying that interests in people's innate and superior abilities was stimulated by the work of Charles Darwin and Sir Francis Galton in the middle of 1800s. Charles Darwin is most famous for his theories about natural selection and the evolution of species. In the past, no one had studied, on a broad scale, individual differences among people or issues related to intelligence and heredity. In the United State, programs for the gifted were established as early as 1866, but real development and growth in educational services did not come until the 1920s. Leta Hollingsworth, one of the early pioneers in the field of education for the gifted, who joined the faculty at Teachers College, Columbia University, in 1916, taught the first course and wrote the first textbook in this area (Silverman, 1992). In West African cultures, specialized education was provided to children on the basis of the children's status, recognized characteristics, and cleverness. In Nigeria, education for the gifted was not articulated until the late 1970s and a greater part of 1980s when the government gave special educators and administrators the opportunities to convene workshops, seminars, and conferences that focused on policies and implementation of gifted education in the country, as shown vividly in section 8, sub section 55 of the National Policy on Education of the Federal Government of Nigeria 1981 (Jatau, Uzo, & Lere, 2002).

2.1 Characteristics of Giftedness and Talentedness

Gifted children may develop asynchronously: their minds are often ahead of their physical growth, and specific cognitive and emotional functions are often developed differently at different stages of development. Gifted individuals also experience the world differently, resulting in certain social and emotional issues. The development of ability or talent is a lifelong process. It can be evident in young children as exceptional performance on tests and/or other measures of ability or as a rapid rate of learning, compared to other students of the same age. Various factors can either enhance or inhibit the development and expression of abilities.

ERIC Clearinghouse on Handicapped and Gifted Children (1985) cites three types of characteristics of gifted children: General behavioral, learning and creative characteristics, others added to that with a physical, social and leadership characteristics. In a nutshell, gifted individuals demonstrated abilities in any of the following areas singly or in combination; General intellectual ability; Specific academic aptitude; Creative or productive thinking; Leadership ability; Visual and performing arts, and; Psychomotor ability

Though, there are so many traits listed by different educators as characterizing giftedness. For instance, Renzulli (1978) after an intensive survey listed as many as 37 traits of giftedness. Example; Sense of humor, Desire to know and to excel, Reason abstractly, Exhibits individualism, Conceptualizes & synthesizes, Solve problems, Self-confidence, Truthfulness, Persist, Takes risks, has wide interests, etc. Educators should also be aware of three common characteristics often seen in these youngsters: sensitivity, perfectionism, and intensity (Neumeister, 2004).

2.2 Identification of gifted and talented children

Early identification; Gifted children express their uniqueness almost from birth. These infants and toddlers master developmental milestones early. They are walking independently well before they are one year old; they are talking in complete sentences before they are two; it is common to see them, reading books before they come to school (Silverman 2005).

Pre-referral; During the pre-referral period, teachers have an opportunity to collect important information about the abilities and performance of their students. These activities can be particularly important to those from diverse backgrounds (Smith, 2007).

Identification; Recognizing giftedness in young children is important because not responding to their educational needs early could diminish their accomplishments during later school years (Smutney, 2000). Without early identification and the delivery of special services, many gifted preschoolers feel forced to underachieve to remain on a par their typical classmates (Mooij, 1999). The schools have defined those who are gifted as high achievers and academically able. The way to find such students is to use IQ test, and grades. Two commonly used tests of intelligence; the Stanford-Binet Intelligence test, and the Wechsler Intelligence Scale for Children (WISC). Therefore, Gifted and Talented individuals can be identified through a *Multiple Criteria Methods of Identification*, these are: Parent nomination, Teachers nomination, Peers nomination, Cumulative school records, and Standardized test.

2.3 Classifications of giftedness

Differentiated Model of Giftedness and Talent (DMGT) is a developmental theory that distinguishes giftedness from talent, offering explanation on how outstanding natural abilities (gifts) develop into specific expert skills (talents). According to DMGT theory, “one cannot become talented without first being gifted, or almost so”. But modern special educators like Gallagher (1979) who's cited by Jatau, Uzo, & Lere (2002) agree that gifted and talented children can be classified into three groups namely: Talented, Gifted and Highly Gifted.

Talented children, they are those with the IQ range of 116+, they possess special aptitude in some special fields. *Gifted children*, this group have the IQ range of 132+, they are usually very bright virtually in every subject. *Highly gifted children*, from the angle of psychometrics, they have the IQ range of 140+, their performance is surprising, they are genius, precocious, or prodigious children.

TO COMPUTE IQ, William Stern, German psychologist (1912), develop the Intelligence Quotient (IQ) test, Stern divided mental age (MA) by the actual Chronological age (CA) of the person taking the test, then multiplied by 100, i.e. $MA/CA \times 100 = IQ$. But in its explanation of the 2002 AAMR, on IQ tests, intelligence is regarded as a trait that is distributed among people in a predictable manner. This statistical distribution can be represented as a bell-shaped curve, called the normal curve, where the majority of a population falls in the middle of the bell, at or around an IQ score of 100, and fewer people fall to either end, having very low or very high intelligence. IQ level is then determined by the distance a score is from the mean, or average score (AAMR, 2002).

2.4 Causes of giftedness

Heredity and Environment are the key players in the development of the intellect. The strictest of the adherents of a genetic view of intelligence believe that every person is born with a fixed amount of intelligence. They argue that there is little one can do to improve intelligence, so Special education programs should not be expected to produce increase in IQ. On the other hand, those who see intelligence as determined mostly by environmental factors see early intervention programs as critical to compensate for the effects of poverty and other disadvantages. Although, the nature-nurture debate has raged for some time, research points to a conclusion that appeals to a common sense: Intelligence is about half due to nature (heredity) and about half due to nurture (environment). The exact mechanisms by which genetic and environmental factors operate remain unknown. Identifying the specific biological and environmental variables that affect intelligence is one of the most important challenges facing researchers in this field.

3. EDUCATIONAL INTERVENTIONS FOR TEACHING GIFTED AND TALENTED STUDENTS

Generally the two methods that are opened for the education of gifted and talented children are Acceleration & Enrichment. All the traditional methods fall under acceleration.

3.1 Acceleration methods

Acceleration is an option that allows students to move through the curriculum more rapidly than their peers who learn in more typical ways, i.e. moving students through a curriculum or years of schooling in

a shorter period of time than usual. (Colangelo, Assouline & Gross, 2004). Acceleration may be offered through different options, such as: -

- i. *Early admission*, This process allowed the gifted child to be admitted whenever they are identified ready into the primary, secondary or tertiary levels of our educational system. In support of this view the National Planning Committee (1986) has commended the admission of gifted children into the Primary at the age of 3, Secondary at the age of 9-11, or is likely to be enrolled into primary 2 or 3 but he lacks the social interaction with his colleagues.
- ii. *Ability grouping*, Another approach is ability grouping, which is placing students with comparable achievement and skill levels in the same classes or courses.
- iii. *Grade skipping*, This is popularly known as (Double promotion), is a process by which a gifted child is allowed to skip an entire class, say primary 3, example: (skipping from primary 2-4) jumping from primary 2 to 4, skip 3. Though it has been heavily criticized because of valuable interaction experiences they lost.
- iv. *Telescopic grade*, This approach allowed gifted children to cover the normal school curriculum in a shorter period of time. Indeed, it is a better alternative to grade skipping because no educational experiences are lost. Example, they may complete 3 years work in one year, most of them complete their primary education in 4 or 5 years.
- v. *Advanced Placement (AP) courses*, This enables students, while in high school, to take classes for which they earn college credit. Advanced placement allows students to study course content in more depth. A side benefit is that they do not have to take these courses over again in college, it may later be used as transferable credits at accredited institutions. This is in practice in many developed countries.
- vi. *Content acceleration*

This method gives highly gifted children the opportunity to move through a particular curricular sequence at their own rate. This is one of the ways of correcting the mistakes and gap created when gifted children are given double promotion or involved in grade skipping.

3.2 Enrichment strategies

The criticism of some methods of accelerating gifted children by many educators brought about justifications used to support another option for education of the gifted. Enrichment simply means adding topics or skills to the traditional curriculum or presenting a particular topic in more depth. Let's look at the different approaches used for enriching the needs of gifted students;

- i. *An independent study programme*, This allows a student to pursue and study a topic in depth on an individual basis, gifted children undertake projects that are agreeable with their ability and succeed in completing them. (Renzulli 1978) added that the teacher is expected to provide the required guidance in order to make beneficiaries of the programme achieve the desired result.
- ii. *The honors programme*, This method enable gifted student to attend designed programs where they can embark on a project that they are expected to execute and present at the end of that exercise, and they are usually organized during weekends or holidays.
- iii. *Cooperative programme*, In many developed countries of the world, community resources, libraries and museum are known for providing efficient programs for gifted children.
- iv. *Mentorship*, This is a programme in which a student is paired with an adult in order to learn to apply knowledge in real-life situations.
- v. *Internship*, This is another programme that places students, usually high school seniors in job settings related to their career goals
- vi. *Attendance of seminars, workshops and conferences*, This approach allows gifted students not only to attend, but also to present papers. Heward & Orlanske (1984) strongly lent their support to this strategy and added that field trips could be quite useful. It also gives them the opportunities to interact with their seniors in both mental and chronological ages as well as those who are their age mates and of the same academic standing with them.

- vii. *Enrichment triad/revolving-door model*, this is an inclusive model for education of the gifted, wherein 15 to 20 percent of a school's students participate in activities to develop thinking skills, problem solving and creativity. Students "revolve" into and out of different level of their programme.
- viii. *Curriculum compacting*, Curriculum compacting recaptures instructional time by reducing (or even eliminating) coverage of topics that gifted students either have already mastered or will master in a fraction of the time that their peers need. Saved time can then be reallocated to enrichment activities, Therefore, curriculum compacting simply means saving time for enrichment activities.
- ix. *Individualized classrooms*, The use of individualized classrooms is an advanced way of practicing Individualized Educational Programme (IEP). Through this method individual team and flexible small group instructions are used. Assessments are used to determine the curriculum and materials for each student. The classroom is decentralized and gives access to many types of learning. Learning centers are usually created in these classrooms by individual teachers which make learning a continuous one.
- x. *Brainstorming*, This is a way of fostering creativity, is a teaching which involves generating ideas in response to some quest or problems. This is usually conducted in groups. Students will be required to contribute their ideas regardless of whether it makes sense or not, the ideas are recorded for evaluation although no criticism is permitted until everyone has contributed. This system is effective in higher institutions and has been proved to generate increasing divergent thinking scores.
- xi. *Bibliotherapy and uses of models*, Bibliotherapy uses literature to enhance gifted students' self-awareness, persistence, and social relationships. Bibliotherapy consist of five components: identification, catharsis, insight, universalization, and action. Teachers and students identify areas of need and select a story or novel that will help them understand the problem and general positive alternatives.
- xii. *The use of technology*, The technological aspect for educating gifted and talented students could be in any forms of information and or communication technology. Technology can be a tool, or an electronic devises, an inspiration, and a means to independent learning for all student, and for gifted student it can facilitated differentiated instruction, particularly for those who live in rural and remote areas (Belcastro, 2002) cited by (Smith, 2007).

3.4 Discussion

Students who are highly gifted or talented are obvious to their families and to their teachers, this paper suggest that corresponding efforts and contribution of both family members and the teachers are very vital to nurture such talents.

But the educational interventions among gifted students differ from those who are in elementary, and those who are in higher level. Most of the traditional methods of acceleration are adopted at elementary stage, while other methods of enrichment are opened to both elementary and tertiary level.

From the explanation of normal distribution curve, it's understood that majority of population have an average IQ, while fewer population possess higher intelligence. Today's professional educators recognize that such standardized IQ test can be inherently biased against individuals who are not from the same culture, or who have not received a strong and traditional educational foundation.

It's finally observed that in terms of Psychometric Assessment, researchers now understand that intelligence, like any other traits, is influenced by both genetics and environment, and IQ is no longer thought of as a fixed characteristics if individuals or as signaled only by a high score on an intelligence test.

4. CONCLUSION

Supporting vulnerability and sensitivity of gifted individuals require special attention from different dimension; special educators, in collaboration and partnership with other educators, community members and families can make a real difference in the educational lives of gifted and talented children. Though, all these can only be achieved when government at any level participate and provide enough funding to

the area of special education for the gifted, so that their potentialities would be benefited.

5. RECOMMENDATIONS

- i. Thus, it's recommended that gifted education teachers and general education teachers need to work closely together to ensure that an appropriate education is provided to gifted students.
- ii. The specialist in education for the gifted help general education teachers differentiate instruction, deliver enrichment activities, and ensure that gifted students remain challenged in their school work.
- iii. Parents and families also need to guide gifted children in making appropriate choices and in holding realistic expectations for themselves and others, they must prepare to commit whatever time and resources were necessary to foster achievement and develop talent.
- iv. Though, many educators claim that minorities and economically disadvantaged children are underrepresented in educational programs for gifted students.
- iv At the same time limited funding for education in general restricts efforts to nurture the talents of all gifted children.

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EXAMINING THE SOCIAL & ACADEMIC IMPACT OF PROVISION OF SANITARY -TOWELS FOR PRIMARY SCHOOL GIRLS ON THEIR PARTICIPATION IN SCHOOL ACTIVITIES IN MOYO, WEST NILE UGANDA

By
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1. INTRODUCTION

The concept of Education for All (EFA) is a direct political response to pressures emanating from the Civil Society Organization (CSO) and international Donor Agencies among others, that realize the symbiotic relationship between education and good governance as well as respect for human rights and dignity. Education is the major source of upward mobility especially in the developing countries, and a principal instrument in fostering democracy, equality and justice. Equal and suitable educational opportunities are essential as panacea to socio- economic and political marginalization of different social groups in developing economy. The domination and suppression of the less privileged and female gender by male gender has continued in spite of equal opportunity to all gender. The recognition of education as an indispensable weapon for human and national development therefore, pressed both national and international laws to declare it a human right for all gender within the auspices of the school (World Bank 1999).

West Nile has 7 districts namely; Koboko, Yumbe, Moyo, Adjumani, Nyandri, Arua and Nebbi with Koboko , Yumbe, and Moyo bordering Sudan while Nyandri, Arua and bordering D.R. Congo. The West Nile has a total population of 1,916,298 people living in 436,622 households(as at 2002 census). According to profiling report, 6 in every 10 persons live below poverty level in West Nile (Alfred Wilfred and Omar). Report has also shown that much hyped UPE policy failed to produce some level of poverty reduction results, in all part of Uganda. This is reflective of the report on West Nile Development Conference of the 2005, stating that the long period of insurgency in West Nile region resulted in cutting off that region from the rest of the country, and the recovery process is at very low pace. Education is therefore, given priority in this regard as it has been proven to be the major source of reconstruction and recovery both in human capital aspect and economic development.

2. SOCIAL CONTEXT

The girl child of menstrual age might be having problem of copying with menstrual days and this is suspected to be one of the reasons contributing to girls' low performance in Primary Leaving Examination (PLE) and girls' participation in school activities. School activities include curricular and co-curricular activities within the auspices of the school.

2.1 Statement of problem

Uganda introduced the Universal Primary Education (UPE) program in 1997 which consequently led to increase in pupil / teacher ration, high pupil classroom and desk ratio causing serious quality issues in terms of effective learning , skill , acquisition and application . According to CEFORD (2014) in West Nile Uganda, despite interventions from Government , UN and CSO's in education the quality of education is still poor due to poor governance , UN , and CSOs in education , the quality of education is still poor probably due poor governance and accountability for UPE funds, limited community participation in education, poor quality of teachers shortage of classrooms ,lack of feeding for teachers and pupils while in in school which might include inadequate inspection of schools .It is very certain that government and various NGO have intervened in the mentioned issues of education in west Nile but gaps still exists because of limited coverage of these organizations. Schools are not built to accommodate or cater for those gender needs and discrepancies existing in real life.Undoubtedly, girls have special needs in provision of sanitary towels while in school to reduce the stress of menstrual days.The difficulty in concentrating in school at certain period in the month constitutes a handicaps.The inclusive primary school system should carter adequately for those girls in this category.

In the last PLE results, West Nile, Eastern and Northern Uganda continues to recorder poor performance with not a single school featuring in the 250 best performing schools in the country – Uganda (Acholi Time Report of January, 2013). It was also reported that schools in the West Nile continues to suffer less government attention in terms of infrastructure and quality of education. Most of the schools in West Nile region still lack basic amenities.

It is based in the foregoing and more that this research becomes very crucial in using a hegemonic context to find out how provision of sanitary towels could help girls in primary school concentrate and participate fully in school activities. It is also clear from researches conducted that we do not know enough about the obstacles some children face (Moyi, 2013). Moyi emphasized that some questions need answers and that Uganda schools should serve the needs of all children. He recommends that quality education should cater for the poor to attend school and progress to completion with full participation of all genders. In an attempt to assist girls during menstruation periods in West Nile, reports from schools reveal that absenteeism resulting from menstruation periods had reduced when FAWE embarked on a project to teach girls how to manage reusable sanitary pads. In the same report, it was observed that sexual health challenges are still rampant in West Nile calling for more action by all stakeholders (FAWE, Report, 2012). This research therefore breaches the gap existing in the same area for reducing and if possible erasing low participation and absenteeism resulting from lack of sanitary towels for girl-children in upper level primary schools in Moyo, West Nile

2.2 Purpose of Research

The research with a hegemonic social context is to determine if provision of sanitary towels can improve girl's participation in primary school activities in Moyo District West Nile, Uganda. It also aimed at reducing girl-child dropout from Primary school in Moyo District, West Nile Uganda

2.3 Significance of Research/Beneficiaries

The findings of this research will help **Government** and **Donor Agencies** consider provision of sanitary towels for girls in upper primary schools in Moyo District, West Nile Uganda. This will reduce rate of drop out, early marriages for **girls** in particular and increase in quality of life in **communities in Moyo District**.

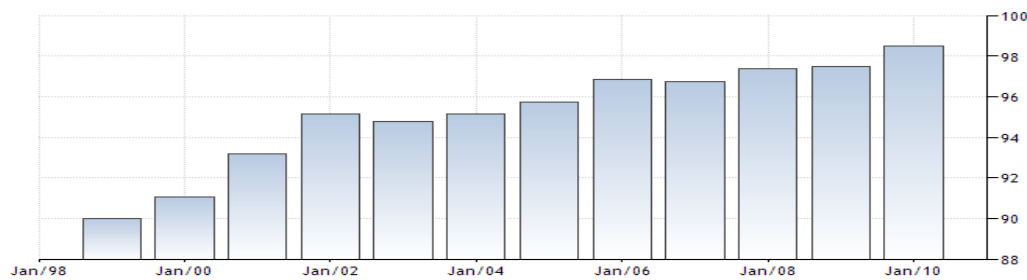
2.4 Objectives of the Research

The following objectives will guide his research: To;

1. investigate the ratio of girls in school to the boys in primary schools in Moyo district
2. measure girls' participation level in P.5 – P.7
3. ascertain the factors responsible for girls low participation and drop out in primary 5 to 7 in Moyo
4. assess the level of impact of provision of sanitary towel to girls participation in primary P5-P7 (by practically giving out samples of sanitary towels and observing the participation rate and drop out rate that term /year)

2.5 Methodology and Findings

A descriptive comparative study of boys participate and girls participation is used in this research. No data on Moyo was identified specifically; however the data available were those of 1998 to 2010, which shows the ratio of primary school girls to boys in a chart for the whole of Uganda (see figure 1 below);

Bar-chart showing the %ratio of Primary school girls to boys in Uganda**World Bank Indicators - Uganda 1998-201**

The data above shows that the ratio of girls to boys in schools are appreciating on yearly basis and by extension, in 2015 the ratio is expected to be 100% or above showing that more girls are now enrolled in schools. This is expected as UPE has indeed impacted on girls enrolment in both rural and urban schools. World Bank report in 2011 indicates that 91% of school age children are already in school in Uganda, so it is expected that above 98% will be in school by year 2015. For Moyo District, an increase is also expected in the enrollment of both boys and girls of school age. In terms of educational attainment, the entire western region in Uganda falls far below the national literacy status for both children and adults, with more gaps in Koboko and Yumbe. Moyo seems to be marginally above national average status (West Nile Profiling Report 2008). High dropout rate in primary schools has also been identified (especially for girl-children) within Moyo, Nyadiru, Adjumani, Yumbwe and Koboko districts. Report reveals also that while UPE has increased enrolment level tremendously, facilities are too inadequate to match such enrolment needs. Many classes are conducted under trees, the few teachers cannot give adequate attention to numerous pupils crowded in each class as such many pupils perform poorly to the extent that many in primary 5 (upper classes) are unable to write their own names or construct a sentence in the instructional language-English. Dropout rate is put on a mean score of 30% and majorities are girls.

2.6 Girls Participation in schools

The researcher carried out a survey interview with P5, P6 and P7 girls in order to ascertain some of the reasons that keep them and also motivate them to participate in school and the possible reasons they might give for dropping out from school. The following reasons were given to the researcher:

- Friendship and peer-support in school
- Good environment for sanitary purposes
- Interesting school activities
- Provision of sanitary towels during menstrual periods
- Pastoral guidance and counseling in school
- Adequate study and scholarly materials for school

After surveying the pupils' understanding of what constituted the odds, the study turned to their own assessment of their current schools to determine what motivated girls (and boys) to persist in their education in spite of the odds; these can be clustered into two broad categories of school pull factors and personal factors.

When asked if provision of sanitary towel is welcomed in the school, all the girls interviewed seem very happy with the idea. Some of the girls said that on menstrual days which they called "red days", they hardly come to school and if they manage to come on certain days, they cannot participate fully in any school activity, even in class they sit quite and moody. One particular girl told the researcher that her sister has dropped out of school when she missed her end of term examination. She felt too out of place to sit in the examination hall because she was not sure her "protection" was good enough to sit on the examination for the hours required. On close inquiry, the researcher gathered that some of the girls use pieces of old cloth, while privileged few use tissue papers as sanitary pads and these are very unhygienic.

According to Wango (2011), Sexual maturation process has been identified to have a negative impact on the education of both boys and girls. One of the strategies to enhance and retain girls participation in school is the provision of sanitary towels to needy girls especially in public primary schools. This also contributes towards ensuring girls retention and effective participation in education. Basic education, a media awareness for girls education based in South Africa has said that many girls from impoverished

backgrounds, the onset of puberty marks a sharp decline in school attendance and could even lead to their dropping out of school completely. For those in senior classes, one of the reasons they gave for low participation in other school activities is lack of sanitary towels for proper protection. Lack of knowledge on how to deal with menstrual cycle is another major reason for low school participation for girls during early puberty. In a campaign to keep girls in school, the company called "ALWAYS", launched a free sanitary towel for girls in schools and this has indeed impacted on girl's participation in schools in Kenya. While the donation of sanitary towels empowers girls to stay in school, the campaign has far greater objectives by motivating girls to have a dream and plan for further education. A recent research revealed that girls at senior primary school level miss classes at least 4 days in a month in rural areas in Uganda such as Moyo district.

In qualitative research phase, the researcher became aware that girls were not exercising proper hygiene in care of cloth used as sanitary pad and were not educated on the symptoms that follow menstrual cycle such as headache, cramps and heavy flow. Most of them had no access to aspirin or panadol during those days. Some of the girls had not got enough number of pieces of cloth, therefore might wear damp cloths which makes it more difficult to walk to school during menstrual cycle. This affected girls' participation and school attendance and consequently academic performance, when compared to boys in the senior classes (P5-c). The quantitative phase shows the impact of menstrual cycle and lack of sanitary towels on girls' participation.

Table 1: Impact of menstrual cycle and lack of sanitary towel on girls

Item	Moyo (Rural)	Kampala (Urban)
I use sanitary pads	9.45	95.2
Miss school menstrual days	98.2	33.5
Participate in school activities	24.3	57.1
Plays with peers	32.3	86.7
Avoid opposite sex	35.4	58.2
Help in house chores	20.5	66.5
Avoid physical activities	21.2	55.7

The table shows that girls in Moyo (rural area) are more affected socially and academically during menstrual cycle. In Kampala used as control shows that they are not really affected by menstrual cycle, probably because provision of sanitary towels is not an issue, and girls are aware and acquainted with management of menstrual cycle. It was observed that girls participation increased and attendance to school increased after one academic term with selected number of pupils (30) as pretest and post -test participants (see Table 2)

Table 2: Attendance and school participation

Senior Class	Pretest (Attendance before Provision of Sanitary Towels)	Post-Test (After the Provision of Sanitary Towel)
P5	20.7	54.6
P6	22.3	51.3
P7	17.9	48.7

From the table above, there is increase in the percentage of attendance of pupils in the senior classes in Moyo District. It is now obvious that provision of sanitary towels to girls in senior primary (those menstruating), has a positive impact on participation and school attendance.

3. CONCLUSION AND ATTENDANCE

The expected outcome of this research is seen in the communities waking up to their responsibility as contributors and partners in education of their children and not depends on government or donor's intervention. The community interventions will take a new leap to see that Primary schools get the support they need for improved quality of school results especially in primary school leaving certificates.

Communities will subsequently have the authority and power to be inclusive in supervision, inspection and overall monitoring of primary schools in their localities. Within few months of creating this awareness through sensitization by proper research result dissemination, all round improvement and greater speed of development will be witnessed in Moyo and other West Nile region specifically and rural areas in Uganda generally.

The researcher, based on the findings of this mini-study, recommends the following:

1. Local communities should collaborate with willing groups and individuals to create awareness in schools concerning girls and management of menstrual cycles. This will go a long way to improve girls' attendance and participation.
2. To improve academic performance of girls in schools in the rural areas. It is possible for schools to provide sanitary towels to girls while in school
3. Government need to increase the budgetary allocation to Ministry of Education in order for policies that include provision of sanitary towels to schools are included.
4. Donor Agencies should direct their attention to helping schools sustain senior girls (P5-P7) in schools without dropping out because of social or psychological impact of growing up with regard to changes resulting from puberty changes.

There are more interventions that could improve primary school girls' participation and academic achievement while in schools.

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TELECOMMUNICATIONS LAW AND POLICY TO PROTECT SUBSCRIBERS' OF MOBILE PHONES IN AFRICA

By
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ABSTRACT

The mobile telephone alternatively referred to as mobile handset, has immense advantages over the traditional land line telephone in that it enables the user to traverse wherever he desires, and yet able to communicate with others either for purposes of transacting businesses or as a means of effecting social interactions, but notwithstanding the apparent advantages of mobile phones, like every coin having two sides, its use has demerits which as a matter of necessity, calls for regulatory measures to protect the subscribers; unfortunately, this is not the case in most African countries, for example, Nigeria reputed for the highest population in Africa ditto the highest number of mobile telephone subscribers in addition to being the biggest economy in the continent, does not have in place, law and policy specifically aimed at protecting or promoting the interest of its subscribers. The usage of mobile phones has assumed phenomenal increase recently; it is the norm rather than the exception in Africa but with the unfortunate trend of dearth of legal and regulatory measures. This Article deals with the legal and regulatory framework pertaining to mobile phones and examines issues relating to or consequences generated thereof. The paper argues that the extant legal and regulatory framework in Africa is not in the best interest of subscribers,⁷ and calls for a paradigm shift towards taking into cognizance the said interest of subscribers⁷ by governments⁷ with the view to putting in place, legal and regulatory precepts simply because the manufacturers of mobile phones and telephony companies, wherever they are situate or operate from, need and rely on the profits generated from African countries. **Keywords:** Telecommunications law and policy, mobile phone, consumer protection, Africa.²

1. INTRODUCTION

A mobile phone alternatively called cell phone is a portable telephone operated through a cellular radio network. ¹ Before the emergence of what is generally known today across the globe as mobile phones, there existed some technological improvements regarding one to one communication across varying distances that were precursors, such as the wireless telephone on trains and automobiles after which hand held radio transceivers and prior to 1973, mobile telephony was limited to phones installed in cars and other vehicles.³

Several telecommunications companies operating in different countries, made the advancement of mobile telephone as seen and used today possible, and notable amongst them are Zugtelephonie A. G. of Germany,⁴ Oakland Transcontinental Aerial Telephone and Power Company, Bell Labs and AT & T - all of USA and Radioelektronika of Bulgaria amongst many others, too numerous to list.

The mobile telephone handset, having made its debut in 1973 when according to records, Martin Cooper, a Motorola researcher and executive, made the first mobile telephone call from handheld subscriber equipment, placing a call to Dr. Joel S. Engel of Bell Labs.⁵ The prototype handheld phone used by Dr. Cooper was reputed to have weighed 1.1 kg and measured 23 cm long, 13 cm deep and 4.45 cm wide, but the mobile handset has gone through successive advancements which have dramatically reduced the size and weight of today's mobile phones, compared with earlier ones, which was a burden to carry around.

2. SUBSCRIBERS' DATA OF MOBILE PHONES IN AFRICA

The African continent is reputed to be the world's second-largest and number two in the ranking of most populous in the world having a population of about 1.1 billion people as of 2013⁶ which is

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² *Microsoft Encarta Dictionary* 2009

³ Informatikzentrum Mobilfunk (IZMF). izmf.de: "The development of digital mobile communications in Germany"

⁴ See Amos Joel patent 3,663,762.

⁵ Martin Cooper, et al., "Radio Telephone System", US Patent number 3,906,166; Filing date: 17 October 1973; Issue date: September 1975; Assignee Motorola

⁶ World Atlas

said to account for about fifteen percent of the global human population and which figure, has been respectively confirmed by United Nations Population Fund (UNFPA) and the World Bank..

Further, it is on record that there are 54 fully recognized sovereign states or countries, nine territories and two *de facto* independent states with limited or no recognition.¹

According International Telecommunication Union (ITU), there are 629 Million subscribers of mobile phones in Africa with 69.3% per 100 people while fixed telephone line subscribers are 12 Million with 1.3% per 100 people.² A comparison of mobile subscription with fixed telephone line clearly indicates that indeed, Africa has embraced the mobile telephone bug.

At this juncture, it is pertinent to categorically remark that mobile phones have pervaded the length and breadth of the entire continent called Africa.

3. ADVANTAGES OF TELECOMMUNICATIONS

Telecommunications is electronic communication; it is the transmission of encoded sound, pictures, or data over significant distances, using radio signals, electrical or optical lines.³

The term telecommunications also refers to the use of personal computers to send and receive information through a communications connection, such as a telephone line. We use telecommunications specifically to refer to processes such as, electronic mail, electronic bulletin boards/conferences/list servs, and research databases, file transfers, chatting, games and simulations.⁴

The advent of telecommunications has occasioned a paradigm shift in the way trading activities are conducted, it has positively impacted on trade and commerce, same has brought about unprecedented increased volume of trade, *nay*, it has engendered speed of transactions completion, immensely facilitated the ease with which transactions are concluded between trading partners; thus, the erstwhile geographical separation, elsewhere called the death of distance⁵ between trading partners is no longer a barrier; telecommunications has bridged the gap thereby creating job opportunities⁶ and unrivalled multiplier effects,⁷ it promotes economic growth,⁸ aids the free flow of information and expression beyond borders,⁹ telecommunications is a catalyst to the development of new infrastructures and architectures, drives economic integration and generates revenue *ipso facto* improves GDP,¹⁰ it fosters technological innovation and competition,¹¹ in addition to advancing the goals of sustainable development.¹²

At this juncture, it is necessary to remark that telecommunications services is not without demerits, amongst other unlawful activities, it has been used to perpetrate child pornographic materials, racism, hate speech, glorification of violence, cyber terrorism, cyber laundering and SMS phishing, spamming, vishing or pharming, robocall, unauthorized text messages and of late, the incidence of cramming, a variant of fraudulent activity whereby small charges are added to the telephone (land and mobile lines) bill by a third party, usually a vendor, without prior consent or knowledge of the subscriber, has assumed astronomical proportion especially in the U.S.A.

1 *Ibid*

2 Key Global Telecom Indicators for the World Telecommunication Service Sector in 2014. See also ITU Statistics (<http://www.itu.int/ict/statistics>) 2

3 *Microsoft Encarta Dictionary 2009*

4 Barron, A. (1995). *Getting Started with Telecommunication*. Florida Center for Instructional Technology: Tampa, Florida, USA

5 OECD 1999. *The Economic and Social Impact of Electronic Commerce* p. 143

6 Plunkett Research Ltd (2014). Telecommunications remains one of the major providers of employment in the world, with 854,800 employees in the U.S. alone during 2013, and that number reflects only jobs in pure telecommunications service sectors. See also Pablo L. Chavez: Comments to the Department of Commerce. Notice of Inquiry on the Global Free Flow of Information on the Internet Docket No. 100921457-0457-01 which stated that "In the United States, the Internet industry has created more than 3 million jobs."

7 Hegeland Hugo, 1954, p. 1

8 R Lars-Hendrik; L Waverman "Telecommunications Infrastructure & Economic Dev. 909-923

9 Claude S. "'Touch Someone': The Telephone Industry Discovers Sociability." *Tech. & Culture* p.32

10 Jean Jipguep, Role of Telecommunications in Economic Integration of Africa - ITU 6054. See also Pablo L. Chavez, *Ibidem*: The internet industry contributes at least \$300 billion to the U.S. GDP.

11 Lenert, Edward: "A Communication Theory Perspective on Telecommunications Policy" pp. 3 - 23.

12 ITU: Telecoms & the environment-The way to sustainable development. Summary of Rio Declaration 3

See respectively *Ellison v. Steve Madden Ltd.*,¹³ *FTC v. Inc21.com Corporation*,¹⁴ *FTC v. Nationwide Connections Inc.*,¹⁵ *People of the State of Illinois v. ID Lifeguards, Inc.*,¹⁶ and *State of Minnesota, by its Attorney General, Lori Swanson v. Cheap2Dial Telephone, LLC*¹⁷ where the courts consistently held that unauthorized calls and or messages are unlawful and that, fraudulent cramming charges levied and collected by telephony operators, be returned to the concerned subscribers.

All said, when the merits and demerits of telecommunications services are juxtaposed, the former by far outweigh the latter and what could be done at all levels of governance, includes but not limited to extensive legislations and strict enforcement of same so as to reap the immense benefits derivable from telecommunications, especially with reference to trade and commerce.

4. LACK OF UNIFORM ULE

From the foregoing submission regarding the importance of telecommunications hitherto highlighted before now, it is manifestly clear that the telecommunications industry play a major role in the world economy; it is fundamental for growth and development aside from being a springboard for quality human life, a necessary element to maintain a smooth flow of telecommunications in order for mankind to maximize the multiple advantages, is to ensure free flow of information that is fairly priced, safe and economically secured as well as engender a balanced terms of the contract to the parties involved in the global transaction.

Having in the foregoing paragraphs attempted the definition and highlighted the indisputable merits of telecommunications services on trade and commerce, it is expedient to emphasize that though telecommunications is the conduit pipe towards the actualization of trade and commerce ditto social interaction, but like every coin having two sides; the extant state of telecommunications law and policy has its demerits; with the world increasingly becoming one global village¹⁸ due to an amalgam of factors subsumed within the realm of comparative advantage, free market economy and globalization, and with telecommunications being the principal driver and agent of globalization, there is currently no uniform rule governing telecommunications law and policy in Africa; this development is not a surprise because, the constituent states that make Africa have no independent or separate legislations governing telecommunications law and policy protecting subscribers. It should be emphasized that the practical implication of the lack of uniform rule had inhibited, and continue to do in-calculable damages to fair, safe, free and secured information exchange; this development unfortunately breeds uncertainty and prompts avoidable litigations in the Africa continent.

The lack of uniformity or one applicable rule for telecommunications law and policy at the continental level, constitute insurmountable hindrance to the widespread use of electronic commerce whereof producers and consumers, whether of goods or services, have not been able to overcome the traditional barriers of distance from the markets as well as the lack of information about market opportunities, thus, the elimination of middlemen in trade and commercials transactions remain largely impossible, and of course, transaction costs remain relatively high.

Further, the lack of uniform rule inhibits access to telecommunications services at affordable and fair continentally agreed prices, ditto for the indispensable telecoms equipment and accessories at uniform prices; the development equally leads to jurisdictional problems, issues of consumer protection, governments intervention, forum shopping etc. all of which predisposes each jurisdiction to legislate on telecommunications issues as it suits them, this invariably leads to multiplicity of rules, thereby creating unnecessary and avoidable legal and administrative difficulties, yet, social interactions, trade and commerce traverses many jurisdictions; succinctly put, the result or outcome is that, the lack of uniformity of telecommunications law and policy, is a barrier to a stable and predictable legal environment.

In addition, the current state of affair has discouraged market entry opportunities for SMEs while retaining the giant corporates and multinationals; in effect, competition is disallowed and contemporaneously, monopoly, oligopoly and oligopsony are encouraged for the fact that there is absence of level playing field, where the market forces of demand and supply could freely operate, this

13 No. 2:11-cv-05935 (C.D. Cal.)

14 745 F. Supp. 2d 975 (N.D. Ca. 2010)

15 No. 06-80180-CIV-RYYSKAMP/VITUNAC (S.D. Fla. Feb. 13, 2008)

16 Final Consent Decree entered in the State of Illinois Circuit Court of the Seventh Judicial Circuit, Sangamon County, Ill. (January 5, 2011).

17 27-cv-11-457 (4th Judicial. District)

18 A term ascribed to McLuhan who described how the globe has been contracted into a village by electric technology and the instantaneous movement of information from every quarter to every point at the same time. See generally Marshall McLuhan, *The Gutenberg Galaxy: The Making of Typographic Man* (1962) and *Understanding Media* (1964).

development naturally lead to higher prices of goods and services, leaving the hapless consumers with fewer choices.

It is on the basis of all the afore stated concerning lack of national legislations and uniform rule for telecommunications law and policy, that this paper intends to canvass for legislations as well as regulatory regimes so as to bring to the fore, the anomalous state of affairs with its adverse consequences on social interaction as well as trade and commerce, *ipso facto*, fill the knowledge interstitial and proceed to make recommendations which hopefully, would redress the shortcomings of the lack of regulation in African telecommunications law and practice.

5. GOVERNMENTS' MONOPOLY OF TELECOMMUNICATIONS INFRASTRUCTURES, ARCHITECTURES AND INTERFERENCE WITH FREE FLOW OF INFORMATION EXCHANGE

At this point, it is necessary to categorically remark that the lack of uniform rule for telecommunications law and policy has engendered the germane issue of domination of the telecoms industry by governments, □ private giant corporates and multinationals who for the most part, maintain a monopoly of telecommunications infrastructures and architectures; the said monopoly has to a large extent left the public interest unprotected while implementing pro-corporate ideology and regulating the content and delivery of telecommunications termed as "captive audience";¹ unfortunately, this development has created a barrier to free flow of information exchange on one hand, and on the other, precipitated a high cost of communications leading to prohibitive cost of doing business and which cost, are ultimately passed to consumers, the said transaction cost is even higher in developing countries, especially in Africa.

According to Notice of Inquiry on the Global Free Flow of Information on the Internet² which cited the Open Net Initiative to the effect that, there are more than forty (40) governments today restricting information online to varying degrees, a tenfold increase from just a decade ago.³ Further, it was asserted that governments □ are incorporating surveillance tools into their Internet infrastructure; see specifically with reference to telephone communication interception, the case of *Liberty and others v. The United Kingdom*,⁴ blocking online services in their entirety; imposing new, secretive regulations; and mandating onerous licensing.

All the foregoing deliberate actions, it was rightfully asserted, often unnecessarily restrict trade, and left unchecked, they will almost certainly become worse. Moreover, governments are engaging in practices that benefit home-grown enterprises, making it harder for foreign companies to compete in those markets. China's indigenous innovation policies that promote favored industries and limit imports are just one example of how recently enacted regulations have harmed U.S. exporters.⁵

There are many ways and forms by which governments □ across the globe interfere with free flow of telecommunications services, with particular reference to the Internet, the following four ways have been identified and documented:

- (a) Technical blocking of access to an entire Internet service (e.g., a search engine, an online store, a platform for hosted content) or specific keywords, web pages, and domains.
- (b) Licensing requirements or other means to force companies to remove search results, making it more difficult for users to locate particular content.
- (c) Take-down requirements demanding the removal of certain websites, enforced by legal orders or by making whole domains invisible to users.
- (d) Encouragement of self-censorship through means including surveillance and monitoring, threats of legal action, and informal methods of intimidation.⁶

Taking into cognizance all the foregoing with respect to restrictions of the Internet, it is worthwhile to emphasize that impediments to free flow of information in whatever form, does the exact opposite to the hitherto highlighted importance of telecommunications to trade and commerce; in summary,

1 Susan Crawford: Captive audience: Journal of Information Policy 3 p. 55

2 Pablo L. Chavez: Comments to the Dept. of Commerce Office of Secretary USA

3 Open Net Initiative, *More than half a billion Internet users are being filtered worldwide* (2010)

4 Application No. 58243/00 01/07/2008 where the European Human Rights Court *inter alia* held that that there has been a violation of Article 8 of the Convention which provides that "everyone has the right to respect for his private and family life, his home and his correspondence" See also, *Weber and Saravia v. Germany* (dec.), Application no. 54934/00, 29 June 2006

5 US.- China Economic and Security Review Commission, *2010 Report to Congress* 46 (Nov 17, 2010). 6

6 See Open Net Initiative, *About Filtering*, <http://opennet.net/about-filtering>. Cited by Pablo L. Chavez: Comments to the Dept. of Commerce Office of Secretary USA

interference with telecoms services causes trade and commercial disruptions, engenders loss of revenue to parties involved in commercial transactions, truncate employment opportunities, stultifies innovation and advancement of InfoTech, in particular, it has been asserted that obstacles to continued Internet innovation, which take many forms, impedes global trade and investment, capital goes where it is welcome, and stays where it can grow,⁷ limits consumers' access to variety of goods and services which would otherwise have been available if they are aware of the existence of such goods and services; in other words, interference with free flow of information limits advertisements, increases market entry costs or out rightly inhibits same leading to higher costs and generally, increases the prices of goods and services; above all, any undue tampering with telecommunications suppresses information thereby robbing the society of the right to information.⁸ See respectively the case of *Handyside v. The United Kingdom*⁹ *Hertel v. Switzerland*¹⁰ and *Van Niekerk v City Council of Pretoria*¹¹

6. GERMANE QUESTIONS ABOUT MOBILE PHONES

In order to properly understand with the view to addressing the issue of mobile telephone consumer protection in Africa, some pertinent questions as hereunder stated are posed by this paper:

- What is telecommunications law and regulation, what warrants them, what are their nature, source, scope, purpose and complexities; with the world increasingly becoming “one global village” as a result of globalization, and with telecommunications being one of the principal drivers and undisputed agents of globalization, is there a uniform rule governing telecommunications law and policy in Africa? If the answer is in the negative, what measures or efforts are being made, to achieve uniformity with respect to telecommunications law and policy specifically designed to protect subscribers so as aid certainty of the law and lessen the adverse effects of mobile telephony?
- Does telecommunications law and regulation offer adequate protection to mobile telephone subscribers in terms of health implications with particular reference to carcinogenic hazard of brain cancers medically referred to glioma and acoustic neuroma besides the potential to impact on cognitive memory functions; costs associated with owning and usage of mobile phones and are subscribers protected from the litany of calls and messages sent by mobile telephony operators via unsolicited adverts for goods and services, social networking and general information which may not be useful to the subscribers but who are nonetheless compelled to receive such calls and messages which causes distractions and irritations that are not compensated for by telephone line operators; with increasing sophistication of mobile phones where access to internet connection is habitual than the exception, are subscribers protected from pornographic materials, racism, hate speech, glorification of violence, cyber terrorism, cyber laundering and smishing or SMS phishing - a method cyber criminals use in exploiting mobile devices, and are mobile telephone subscribers protected when VoIP systems are used to support vishing (telephone-based phishing) schemes in addition to social engineering scams?
- What is the meaning of “network failure” and thus this concept in mobile telecommunication constitute obstacle to trade and commerce, ditto social networking of the mobile telephone subscribers, if so, does the said obstacle fetter or inhibits trade between persons, organizations, multinational corporations and nation-states, and if the answer is in the affirmative, what steps or efforts are being made to protect hapless subscribers with regard to mitigating the negative effect of the obstacle to trade and commerce and social networking occasioned by “network

7 United States Council for International Business: USCIB response to notice of inquiry on global free flow of information on the Internet. See www.ntia.doc.

8 See Universal Declaration of Human Rights 1948 and, in particular, Article 19 which provides that: “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. See also Article 12 of UDHR which states: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.” and International Covenant on Civil and Political Rights (ICCPR), Article 19 of which provides that everyone's right to freedom of expression “shall include the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

9 Series A, No. 24, 1 EHRR 737 (1979) where the court *inter alia* held that “freedom of expression constitutes one of the essential foundations of (a democratic society), one of the basic conditions for its progress and for the development of every man. It is applicable not only to „information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society.”

10 Application No. 25181/94, Aug. 25, 1998, the Court stated “it would be particularly unreasonable to restrict freedom of expression only to generally accepted ideas.”

11 (1997) 3 SA 839 (T). The court asserted that the right to information aims at subjecting organs of state to a new regime of “openness and fair dealing.” 7

failure” which cost, the subscribers are compelled to bear; what is the length of time allowed to initiate telecommunications claims; is there uniformity in the time frame allowed, is the said time length equitable or justified in all circumstances warranting their continued imposition, and have they improved or worsen the economic and socio well-being of subscribers, end-users and stake holders; what are those requisites that frustrate genuine telecommunications claims and do they deny plaintiffs/litigants of their human and constitutional right of access to courts; are there other dispute resolution mechanisms aside from litigation to resolve claims or disagreements in telecommunications transactions; if so, are the said mechanisms equitable and justifiable in all circumstances, and finally, does the time tested doctrine of law: *verba fortius acci piuntur contra proferentem* apply to telecommunication cases?

7. AREAS IN NEED OF ATTENTION FOR LEGISLATION AND REGULATION

For the fact that the telecommunications services in the proportion as witnessed today in Africa is still in the nascent stage, compared with the developed worlds, there are many areas in dear need of relevant laws and regulation, as such, this section addresses that issue with the view to bringing to the fore so that the appropriate bodies could focus and direct their efforts with the hope of improving consumer protection, in the use of mobile phones in Africa.

The first and foremost means of adequately protecting subscribers of mobile telephones in Africa is the enactment of relevant legislations as well as incidental regulatory norms. As noted in the abstract section of this paper to the effect that, Nigeria has the highest population in Africa ditto the highest number of mobile telephone subscribers but regrettably, that great country have no specific law on consumer protection with particular reference to mobile phones.

The relevant maxim which readily comes to mind is *ubi jus ibi remedium* which means *no wrong without remedy, where there is right, there is remedy*. The foregoing time tested principle of law unfortunately is not applicable to mobile phone cases in Africa because, the necessary legislation is not in place, stated otherwise, if there are perceived wrongs to users of mobile phones either by manufacturers or telephony operators, since the necessary instruments in the form specific legislations and regulatory norms are not in place, there is no way the users' interest or protection can be actualized for in the words of the erudite judge Lord Denning, in the celebrated case of *UAC V Mc Foy*¹ that “*You cannot place something on nothing and expect it to stand.*”

Further, the anomaly of lack of extant legal provisions specifically addressing consumer protection could hardly be remedied because, the principles of common law developed centuries ago, could hardly cope with the new technological developments, multi-faceted and multi-dimensional as well as radical innovations and revolution that is ongoing today, in the mobile telephony industry.

The shortcoming of lack of legislation and regulation in most of African countries where mobile phones are in use is also an albatross at the continental level. The African Union, though exist in principle, but the legal instruments which are supposed to unify transactions at the level of the continent are lacking, this unfortunate development has by and large, militated against subscribers of mobile phones from getting adequate protection. In effect, telecommunications law and regulatory signposts which mainly address the issue of protection of subscribers are not in place, this development leaves the hapless subscribers at the mercy of manufacturers and mobile telephone operators.

Having in the foregoing generally highlighted the need for legislation and policy to protect subscribers of mobile phones in Africa, this paper categorically states that specific attention must be focused on health implications of mobile phones, the pricing of the mobile telephone service, unsolicited advertisements and unauthorized deductions, enforcement of SIM card registration, service disruptions and poor network coverage, data privacy and misuse of confidential information, right of access to the courts, as well as Alternative Dispute Resolution mechanisms. The sub head of areas in need of attention are hereunder discussed.

8. HEALTH IMPLICATIONS

One fact which is beyond controversy is that mobile phones use radio frequency which enables it to be used as a medium of communication; the stream of radio frequency believed to be invisible which penetrate the human body, has been touted as a veritable source of cancer, besides the potential to negatively impact on cognitive memory functions which is known to cause confusion and human

¹ (1962) AC 152 9

inability to think clearly.

Although, there is divergence of opinions amongst scientists and researchers as to the real effect or health implications of the use of mobile phones; while one school unrepentantly holds the view that the mere use of mobile phones have no adverse consequences, another other view, maintain that the prolonged use of mobile phones is a veritable source of carcinogenic health hazard. The variance in the informed opinions seems to have been laid to rest by the authoritative global body on health issues, that is, the World Health Organization (WHO) when it has announced on May 31, 2011 that cell phones can possibly cause cancer and as a result, have listed cell phones as a "carcinogenic hazard", in the same category with lead and engine exhaust.²

Further, it is on record that a peer-reviewed study consisting of thirty one scientists from fourteen different countries found evidence for an increase in some brain cancers (glioma and acoustic neuroma) that take a while to develop and the scientists fear that long-term usage of mobile phone could result in more of these types of cancer.³

Despite the numerous advantages of mobile phones, such as, its use as a means of communication either for social interaction which keeps family and friends in contact with the user, or for business purposes thereby aiding small, medium or large businesses to be transacted and concluded at local, national and international levels, besides its utility at times of emergencies; and these days, with smart phones, where internet connection with free calls and messages is the order of the day, mobile phones also have many accessories such as radio, music, video, chat rooms, games, cameras and roaming services.

Above all, the portability of mobile phones makes them to be next item to be carried aside from money or credit card wherever Africans traverses nowadays. However, notwithstanding the almost endless advantages attributable to mobile phones, the propensity of its cancer causing demerit needs to be balanced with its merits, and that fundamental issue shall be addressed later in the paper.

9. PRICING AND BILLING OF MOBILE TELEPHONE SERVICE

It is a notorious fact that the exchange of goods and services is an important aspect of human life; in this modern time, countries of the world are not equally endowed with human and natural resources, more importantly, the economic principle as espoused by comparative advantage⁴ on one hand, the free market economy,⁵ globalization⁶ and telecommunications on the other, has made trade and commerce at individual, corporate, multinational as well as inter-governmental commercial transactions, an indispensable aspect of human life.

It is also a long settled principle of Economics that the dual but opposing forces of demand and supply are always at play; and where these two forces crosses one another on the demand-supply curves referred to as equilibrium, dictates the prices charged for goods or services. Unfortunately in Africa, this well settled principle is not applicable to price setting in the mobile telephone markets. This paper argues that price fixing, that is, the artificial setting of prices by governments in connivance with foreign based multinational telephony operators instead of free market operation, is what obtains in most African countries.

In other words, demand based pricing, a pricing policy that sets the price of mobile telephone services according to the perceived amount that subscribers are willing to pay, rather than according to the production cost of the telephone services, is what holds sway; better still, it can be asserted that demand-constrained equilibrium,⁷ which means, a state of balance obtaining when prices remain at a level above that at which aggregate demand equals aggregate supply, is the applicable current pricing which most subscribers of mobile phones are paying today in Africa.

A ready example in justification of unfair pricing and billing of mobile phones subscribers in Africa is that of Nigeria where foreign telephone operators namely MTN and Celtel were in operation as at 2001; when Glo Mobile was licensed in 2002, what MTN and Celtel had repeatedly told Nigerians was impossible, despite incessant subscribers' complaints of exorbitant pricing charged by the duo (MTN and Celtel) miraculously became possible overnight, when the newly licensed Glo Mobile introduced

2 <http://edition.cnn.com/2011/HEALTH/05/31/who.cell.phones/index.html>

3 <http://www.who.int/en/> See generally also Liz Armstrong et al. *Cancer: 101 Solutions to a preventable epidemic*, p. 49, (2007), ISBN 9780865715424 10

4 Maneschi, Andrea (1998). *Comparative Advantage in International Trade*: Elgar. p. 1

5 Hoffman George p. 538

6 Theodore Levitt: *Globalization of markets* p. 20

7 *Microsoft Encarta Dictionary*

“per second billing” and other innovative packages aimed at reaching low-income segments of the population, thus contributing to lowering of mobile tariffs.¹

The point being made here is that most African governments have willfully refused to liberalize the telephone market, this development largely disallow competition and encourages high prices, leaving the subscribers with no choices than keep patronizing the few telephony operators, whose services are far from good.

10. UNSOLICITED ADVERTISEMENTS AND UNAUTHORIZED DEDUCTIONS

More often times than not, subscribers of mobile phones in Africa are bombarded with advertisements of all sorts, most of which are without the consent of the subscribers. A curious subscriber would wonder about the origin or source of these unsolicited adverts; this paper asserts that they largely arise from the data supplied to mobile phone operators and are used by marketers of goods and services to sell their products to the subscribers, irrespective of whether the subscribers desire the advertised goods and services or not.

The use of subscribers' data by marketers has been dubbed profiling the mobile customer by King and Jessen.² The authors contended that mobile telephone customers are being tracked and profiled by behavioral advertisers to be able to send personalized advertising. Profiling is an automatic data processing technique that consists of applying a profile to an individual, namely in order to take decisions concerning him or her; or for analyzing or predicting personal preferences, behaviors and attitudes. In a technical sense, profiling is a computerized method involving data mining from data warehouses, which makes it possible, or should make it possible, to place individuals, with a certain degree of probability, and hence with a certain induced error rate, in a particular category in order to take individual decisions relating to them.³

All said; profiling of mobile telephone subscribers raises two key issues of interference with personal data protection, ditto personal autonomy and liberty. It is thus on record that recent studies show consumers are concerned about their privacy and personal data in the context of behavioral advertisements, they desire control over collection and use of personal information about them and they lack knowledge and understanding about data collection practices and policies.⁴

With reference to unauthorized deductions, this essentially means the removal from the credit outstanding in the subscribers' account without the knowledge or prior consent of the concerned subscribers for services which they did not use or order for, this unlawful practice by telephone companies and their accomplices is known as cramming. In *Toni Spillman v. Domino's Pizza LLC and RPM Pizza, LLC*⁵ the facts were that the plaintiffs alleged that the defendants caused the transmission of multiple unsolicited, pre-recorded advertising telephone calls and text messages to their home and cellular telephones over a four-year period without prior consent and in violation of the TCPA. On May 24, 2013, the Court granted final approval of the parties' settlement in the sum of \$9.75 million payments in the form of cash and merchandise vouchers, to the affected subscribers.

In *Re Jiffy Lube International Inc.*,⁶ the complainant contended that the defendant Heartland Automotive Services, Inc., a Jiffy Lube franchisee, and its telemarketing vendor allegedly violated the TCPA with a text-message promotional campaign willfully transmitted to more than two million subscribers of mobile telephones without obtaining their consent prior to the text messages. All the moves by the defendants to thwart the complaint were unsuccessful including a motion to compel arbitration. The settlement award valued at \$35-\$47 Million was given to the subscribers in addition to an injunctive relief prohibiting the defendants from sending further commercial text messages without written consent from the recipient. The Court granted final approval of the parties' settlement on February 20, 2013.

Here, it is necessary to emphasize that all the fore-going cases were decided on the provision of Section 201(b) of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. 201(b) which

1 UNCTAD. Information Economy Report 2007/8 Science & Technology for Development: The new paradigm of ICT UN New York & Geneva 2007 p.11 11

2 Nancy J. King and Pernille Wegener Jessen. Computer Law & Security Review 26 (2010) 455-478 available at www.sciencedirect.com

3 (CRID), p. 5, (Jan. 2008) (Dinat et al) available at: <http://www.statewatch.org/news/2008/aug/coe-profiling-paper.pdf>

4 Gomez et al. “Know Privacy Report” UC Berkeley School of Information.p.5 (1/6/2009)

5 No 10-cv-349 (M.D. La.) 12

6 No. 3:11-MD-02261 (S.D. Cal.)

forbids placing unauthorized charges for or in connection with telephone service constitutes an unjust and unreasonable practice; stated in other words, if the enabling legislation Telephone Consumer Protection Act (TCPA) were not in place, the telephone company would not have been in violation of any law, and the subscribers would not have had grounds to premise their cases.

11. ENFORCEMENT OF SIM CARD REGISTRATION

SIM card means Subscriber Identity Module card, which is a smart card that is inserted into a mobile phone whereat the bio data or personal information about the subscriber is stored.

The need for enforcement of SIM card registration in Africa has many implications, but the most important of all, is security. When a SIM card is registered, the identity of the card owner can easily be traced need case, the owner has illegally used the registered SIM card in an unlawful manner.

Quite a number of mobile telephone executives, experts, authors and researchers⁷ have vehemently argued that SIM card registration is counter-productive and as a result, lessen the overall number of subscribers that would, save the mandatory registration, have acquired mobile phones. This paper differs; it is not persuaded by whatever rationale advanced by protagonists of non-mandatory registration when the issue of security is weighed against a few interests, who could not use mobile phones because of mandatory registration. Put in another way, the enforcement of SIM card registration from a security point of view, goes a long way to protecting subscribers of mobile phones from threats, harassment, intimidation, hate speech, and lately with smart phones having internet access, to some extent, subscribers are protected from pornographic materials, racism, glorification of violence, cyber terrorism, cyber laundering and SMS phishing, vishing and social engineering scams.

It is necessary to quickly add that SIM card registration deter fraudulent practices where mobile money transactions and online sales and purchases are involved.

Aside from the fact that SIM card registration protects subscribers from mobile frauds, another point canvassed in support is that for record purposes, registration is necessary so as to enable the private as well as public authorities have access to data on mobile phone subscribers for planning purposes as well as the enablement of mobile operators, to have a predictable profile about users in their network.

12. SERVICE DISRUPTIONS AND POOR NETWORK COVERAGE

Service disruptions in the context of mobile phones usage may be viewed as an unexpected break or termination in the process of communication. There are many variants of service disruptions but the most notable are drop calls, unsuccessful connection after several trials especially at times of urgencies, call diversion to other mobile lines, poor voice clarity during conversation between subscribers, external interferences during communication which prevent subscribers not to adequately understand the message(s) being conveyed.

The other set of service disruptions in mobile phone communication are unsolicited text messages in the form of general information, social networking and advertisement of goods and services, scam promos, inability of subscribers to send and receive messages, incomplete messages etc. while the other category of service disruptions includes but not limited to the deduction of subscribers' airtime for services not used or ordered for, service or data renewal by telephone carriers without prior consent of subscribers and lack of compensation⁸ for unauthorized deductions and failure to give notice and apology where necessary, to subscribers for technical faults and service equipment maintenance reasons.

Poor network coverage refers to when the communication service is either not available at all or is staggered; though sometimes observed in cities but it is a permanent feature that is experienced mostly in rural areas, where the telephone companies have no masts or other equipment, machinery and accessories that aids easy reception of signals that facilitate service availability and communication on mobile phones. Majority of telephone carriers invest in urban areas leaving the rural areas unattended because of scattered or sparse number of the rural dwellers; this trend is rather unfortunate for, the urban

7 See generally Nicola Jentzsch: Implications of mandatory registration of mobile phone users in Africa. DIW Berlin German Institute for economic research Available at <http://www.diw.de/discussionpapers> 13

8 In Oman all consumers have the right to be offered the same class and the same terms of services. Operators are required to provide the best possible service and meet the quality of service requirements set out in the license conditions. Should the customer's service be interrupted continuously for more than 24 hours for technical or maintenance reasons, the service provider must waive the monthly subscription charge. If the operator-supplied device becomes defective within the warranty period, operators are obliged to replace or repair it. See ITU: Regulation and consumer protection in a converging environment. March 2013, p.10 14

population of most African metropolises depend solely on agricultural and animal products emanating from rural areas which constitute the majority of most African countries □ population.

13. DATA PRIVACY AND MISUSE OF CONFIDENTIAL INFORMATION

Subscribers □ data are personal information given to the telephone carriers in good faith, it contains amongst others, the names, date of birth, schools attended and employment history etc. The use of data in the custody of telephone operators in a way not desired by the subscribers □ is a very serious issue bothering on breach of trust and abuse of confidentiality. Subscribers □ data are more often than not, given to advertisers of goods and services who use same in the promotion of their businesses. The idea situation should be that data in possession of telephony companies, must be kept private and confidential and that if need be that any person(s) or organization(s) requests for the data of the subscribers □, it is incumbent on the telephone carrier to seek and obtain the consent of such subscribers, □ regrettably in Africa, this is not the norm. See the European recently decided case of *Digital Rights Ireland Ltd v Minister for Communications, Marine and Natural Resources and Others and Kärntner Landesregierung and others*.¹

14. RIGHT OF ACCESS TO COURTS AND ADR-MECHANISMS

The right of access to court by the citizens is an inalienable and a constitutionally guaranteed right of almost the truly sovereign nations in Africa. It is referred to as *locus standi*² in Latin which means the right to bring an action or challenge some decision or generally referred to as the “standing rule.” This is a requisite that a litigant must have before he can properly ventilate his disagreement, by bringing up a case in court. The issue of standing to sue is so radical that it forms the basis of any consideration and goes into the roots of any matter before the courts. If a litigant lacks standing, then there is no need to try the case by the court, thus, a defect in standing is fatal, no matter the merits of the case.

The issue of *locus standi* is relevant to telecommunications cases because more often than not, the telecoms institution is a government body that is publicly owned. Although the right of access to court is constitutionally endorsed, however, it is not automatic as the litigant must fulfill some criteria, such as, show cause that his legally protected right has been or about to be infringed, further, there must be causation to the effect that the injury complained of, must be fairly traceable to the act of the defendant and finally, that the injury must be one capable of redress by the court.

In the Commonwealth nations, “sufficient interest” test have been used in interpreting *locus standi* while in other jurisdictions, “personal right” test were applied; all said, the application of the standing rule has occasioned miscarriage of justice and truncated many meritorious cases. In effect, standing rule greatly reduces the number of people eligible to bring action against the government; creates a reliance on the resources, financial and professional, of a few, or even a single, person, to bring an action to court.

The person with standing has to actually want to bring the action; an alleged breach has to have taken place, meaning that no actions can be brought *preventing* someone □s rights being infringed.³

For an exposition of how the standing rule had thwarted meritorious cases in the past, see *Senator Adesanya v. President, Federal Republic of Nigeria and another*⁴ and *Chief Fawehinmi v. Col. Akilu and another: In Re Oduneye*.⁵

It is interesting to note that the standing rule has been appreciably relaxed and today, quite a number variants of standing are now available which includes but not limited to relatives of the aggrieved, namely „*surrogate standing* □; to an association where the aggrieved person is a member or is representing a number of claimants, namely „*associational standing or class action* □; standing based on a public right or interest namely „*public interest standing* □; its most relaxed form, „*actio popularis* □ where the public interest is based merely on the fact that the case concerns a constitutional issue.

This paper holds the opinion that the relaxation of standing rule is rooted in judicial activism, a development which has reshaped and radically altered the hitherto harsh interpretation of the *locus standi* rule; see in particular, the decision in *Retrofit (PVT) Ltd v Posts and Telecommunications Corporation*⁶

1 (2014) C-293/12 and C-594/12

2 *Oxford Dictionary of Law*. 5th Edition p. 296 15

3 Institute for Human Rights and Development in Africa (IHRDA) Judicial Colloquium on Locus standi in Administrative Justice and Human Rights Enforcement 8th and 9th of October 2001

4 (1981) 2 NCLR

5 (1987) 4 NWLR

6 1996 (1) SA 847

the facts of which were that the applicant requested the defendant to issue it with a license for the purpose of establishing a mobile cellular telephone service. The respondent refused to grant the license on the ground that the service was one over which it enjoyed a monopoly.

The court *inter alia* held that it was axiomatic that for respondent to monopolize telecommunication services in Zimbabwe, and then to furnish a public switched telephone network of notoriously poor worth, available only to a small percentage of the population, manifestly interfered with the constitutional right of every person to impart ideas and information by means of the telephone network. Persons in every walk of life were entitled to a telephone service which affords them a rapid and reliable means of communication. A public monopoly which failed to fulfill that essential role imposed a severe restraint upon the constitutionality protected freedom of expression.⁷

With regards to Alternative Dispute Resolution mechanisms, this is almost non-existent in telecommunications service provision in Africa, even where they are; same is fraught with irregularities and ineffectiveness.

Whereas, from the time immemorial, disputes have been known to arise amongst human beings and historically, mediation, conciliation and arbitration were known judicial processes used in revolving same.⁸ By definition, an arbitration is the reference of a dispute or difference between not less than two parties for determination, after hearing both sides in judicial manner, by a person or persons other than a court of competent jurisdiction.⁹

From the above definition, certain key features are discernable such as, the object of arbitration is to settle differences and hearing is conducted in a manner similar to that of a court. It is necessary to quickly earmark that only justiciable dispute can be referred to an arbitration, i.e. all matters in dispute about any real or personal property¹⁰ and not dispute arising out of illegal transactions,¹¹ in addition, it should be noted that it is trite law that an arbitration is not authorized to settle a criminal charge as this is within the ambit of public law which is settled by a trial in a court of competent jurisdiction.¹²

Mediation, conciliation and arbitration alternatively referred to ADR are means of settling justiciable issues; the three methods differ in that while an arbitrator is concerned with the imposition of a solution on the disputing parties, a mediator or conciliator does not himself hand down a decision in respect of the dispute. A mediator merely attempts to bring the parties together and encourage them to resolve the dispute themselves. A conciliator, on the other hand, assists the parties to reach a compromise decision by suggesting a solution to them, for consideration among the disputing parties. It is of course better for parties that a dispute does not arise between them in the first place.

In the words of Prof Schmihoff, it is a truism to state that arbitration is better than litigation, while conciliation is better than arbitration and the prevention of legal dispute is better than conciliation.¹³

At this juncture, it is pertinent to bring to the fore the advantages of ADR over litigation, the same reason accounts for why the business world, more often than not, prefer arbitration to litigation; arbitration can be quicker than litigation whereas a court action is inflexible for it involves conformity with laid down procedure which cannot be circumvented by the parties; arbitration is less expensive than litigation; parties to court proceedings usually retain counsels who normally charge high fees aside from mandatory filing fees and other incidental costs; arbitration process permits some dispute to be resolved solely on documents without hearing, this process saves time and money; disputing parties can represent themselves in arbitral proceedings, they can alternatively be represented by other persons of their choice, who may, or may not be a lawyer.

In contrast, non-lawyers have no right of audience in the courts except they appear as witnesses, legal representation at the court is the exclusive preserve of lawyers only.

Arbitration takes care of the convenience of the parties and their witnesses in fixing the date, time and place of hearing, this contrast with court proceedings, where what is paramount is the convenience of the court itself; arbitration allows for the selection of experts into disputes on matters in which they are

7 Available at www.hrcr.org/safrica/expression/retrofit_telecomm.html 16

8 E. Apata (1977): *The Nigerian Arbitration Law* in Focus p. 1

9 *Halsbury's Law of England*, 3rd Ed. Vol. 2 p. 2

10 *Baker v. Townsend* (1817) 7 Taunt 422 cited in G. Ezejiofor (1977) *Laws of Arbitration*. p. 3

11 G. Ezejiofor (1977) *Law of Arbitration in Nigeria* P. 3

12 *The Queen v. Blakemore* (1850) 14 Q. B. 544

13 *The Export Trade* 7th Ed. p. 411 17

proficient; arbitration is conciliatory in nature and contrasts with litigation which has the connotation of battle between litigants; the decision of an arbitral tribunal is final and binding on parties. Consequently, an arbitral award is not subject to appeal, and most parties prefer to have final decisions rather than face the prospect of an appellate litigation.

Despite all the afore-stated merits of arbitration as a dispute resolution mechanism, it has its drawbacks which includes but not limited to the fact that the arbitral tribunals have limited powers to deal with matters which usually arise during its proceedings. As a private body, it has no coercive powers to compel the appearance of witnesses or production of documents before it. It can only achieve this through the assistance of the courts. Moreover, it is not possible to bring multi-party disputes before a one man tribunal or panel. Therefore, an arbitral tribunal, unlike a court of law, cannot, in general, order the consideration of disputes even when it appears desirable or necessary to do so in the interest of justice.

The most important demerit of arbitration is that its award can be set aside by the court and when this happens, the parties are back to square one, this definitely prolongs the final resolution of the difference(s), huge costs are incurred as well as precious time which would have been usefully used in other endeavors, is wasted. Again, the award of an arbitral tribunal is not a judicial decision and so cannot be enforced as such. Therefore, if the guilty party fails to implement the award, the successful party has to resort to judicial process in order to compel compliance, and this may take a considerable amount of time and money.

15. CONCLUSIONS

This paper concludes by stating that the mobile telephone though has its origin in the developed worlds but the use of same today, has become part and parcel of the African way of life. It has many advantages, the chief being that, it is a principal driver of trade and commerce, hence the economy, and a major tool for social interaction; but the mobile phone has been identified as a potential cancer-causing agent while medical evidence is not disputed that mobile phone radiation, affect the electrical activity in the brain, besides the fact that the surface of mobile phones, is habitat for micro-organisms through which they permeate the human body. Mobile phones could cause irritation and distraction and subscribers are vulnerable to tracking.

This paper observes that in Europe and America from where mobile phones originates, there are adequate laws and regulations protecting the subscribers, but in Africa where mobile phone subscribers is reputed to be the second largest in the world, there is dearth of laws and regulations, *ipso facto*, the hapless African subscribers are at the mercy of the mobile phone manufacturers, their governments and foreign telephone carriers.

Elsewhere but in Africa, telecommunications especially the mobile phone market, is highly liberalized; unfortunately, this is not the case in the continent under discussion; governments in Africa tenaciously monopolize telecommunications infrastructures and architectures with the result that the subscribers have to pay exorbitant prices for mobile telephone services, compared with their counterparts all over the world; the same reasoning accounts for why enabling laws and regulations are lacking because the instrumentality of power and authority rests with the governments at the expense of the subscribers.

At this juncture, it is pertinent to state that the myriad of challenges or problems experienced by subscribers in Africa is rooted in the dearth of necessary legislations and policies, and if the continent is to conform with acceptable practices in other continents, an enabling legal environment must be fashioned out by persons in authority, and the critical areas that needs immediate attention of the proposed legislations and regulations includes, but not limited to frontally addressing through the law, health implications of mobile phones, the pricing and billing of mobile telephone services, unsolicited advertorials and unauthorized deductions of subscribers credit units, the need for strict enforcement of SIM card registration for all subscribers as well as taking immediate steps, to addressing the incessant and recurring issue of service disruptions, outages and poor coverage. 19

16. RECOMMENDATIONS

As elsewhere pointed out in the preceding sections regarding the lack of legislations and regulations in Africa with specific reference to mobile phones, the foremost recommendation which this paper proffer, is that each country in the Africa continent, should as a matter of urgency, put the necessary machinery into motion so as to have in place, laws and regulations specifically enacted on telephone

services. This is the foundation stone on which other building blocks rest. It is a long settled principle of law that no man shall be punished for an offence for which there is no law, this cardinal principle is expressed in Latin as “*Nullum crimen, nulla poena sine praevia lege poenali*” or shortened as “*nulla poena sine lege.*” The literal translation of the expression is simply that no crime is deemed committed, and no punishment can be meted, without a violation of penal law as it existed at the time when the alleged offence occurred”

The point being made is that in most of the African countries, there are no laws and regulations which either criminalize or made tortious, several issues pertaining to penal offences committed by telephony companies; in other words, the subscribers are left without the protection of law, thus, this paper is of the view that the enactment of legislations and regulations is the starting point that would alter the anomalous current state of affair.

With respect to the health implications of mobile phones especially for its cancer causing attribute, this paper strongly recommend that governments should roll out with immediate effect, the Mobile Telephone Import Guidelines that specifically make the following suggestions mandatory, for all mobile phones imported into their respective countries:

- (1) That all mobiles phones should carry warning signals of the inherent dangers of radiation similar to that inscribed on cigarette packs
- (2) That on “instructions on how to use” manuals in every phone pack, a special leaflet should incorporate the warning about health effects of mobile phones which includes but not limited to:
 - (a) Do not keep mobile phone close to yourself because even when they are not in use, they emit radiation
 - (b) Men should not keep mobile phones in their pocket trousers near the groin, as radiation thereof accounts for 30% sperm count reduction¹
 - (c) Mobile phones should not be kept close to the body especially the vital organs of the human body such as the heart, liver etc.
 - (d) Length of conversation with mobile phones should be limited because, the longer the conversation, the more prone to absorption of radiation by user. ²
 - (e) Rather than prolonged conversations, users are advised to send messages, and even when texting, mobile phones should be kept as much as possible, away from the body.
 - (f) Moving around while talking on mobile phones is not advisable because the phone keeps track of the user and more radiation is emitted as a result, thus, it is better to stay still when in conversation.
 - (g) It is advisable to use hands-free devices and wireless headset or better still, put the mobile on speakerphone, all these increases the distance between the user and mobile phone which in effect, reduces radiation
 - (h) It is not advisable to use the manufacturer’s headset that accompany mobile phones because there is medical evidence, to the effect that the headset intensify the mobile radiation in the eardrum, thereby exacerbating the adverse effect of mobile radiation³
 - (i) It is not advisable to make mobile telephone calls in metal enclosures such as in ATMs, elevators, metal cabin, kiosks, cars etc. because the enclosed metal makes the emitted radiation from the phone to reflect on the mobile phone user, as well as other persons, who may be in the metal enclosure.

1 See <http://www.dailymail.co.uk/health/article-1392810/Mobile-phones-can-increase-cancer-risk-shock-finding-major-study.html?ito=feeds-newsxml> 20

2 Medical evidence suggests that a two minute call alters the brain’s natural electrical activity for up to an hour afterward. See <http://www.dailymail.co.uk/health/article-1392810/Mobile-phones-can-increase-cancer-risk-shock-finding-major-study.html?ito=feeds-newsxml>.

3 See <http://www.edition.cnn.com/2011/health/05/31/who.cell.phones/index.html>

- (j) Use of mobile phones by children is discouraged because of their tender bodies which absorbs more radiation emissions than adults.¹ See Natural news² for a comprehensive account of protection against mobile phone emission.

For the subscribers to mitigate the effect of mobile radiation, it is recommended that mobile phones should be kept out of the bedroom and should be turned off when not in use, more importantly, it is better to purchase and use less sophisticated phones because, the more applications or complicated a mobile is, the more the radiation it emits.

As a means of self-protection, subscribers are strongly advised to purchase mobile phone protective devices, these comes as adhesive small chips attached to mobile phones which reduces the effect of radiation from mobile phones; further, screen shields that are adhered to the mobile phone earpiece, are recommended as immediate steps to subscribers who may or not be aware of the potential dangers of mobile phones radiation.

This paper is of the view that the high cost of mobile phone services in Africa would be a thing of the past, if the market is liberalized; liberalization would go a long way to lessen the rules of market entry for more telephony operators, by so doing, competition would be encouraged and in turn, this development, would drive down the cost of service as well as improve service quality as competitors would strive to do outdo one another, in an attempt to remain afloat and more importantly, to generate profits.

Further, it is recommended that consumers, that is, the subscribers' representatives should be included in schemes that determine the cost of telephone services in conjunction with governments and telephony companies, in other words, the lack of consultation or inclusion of subscribers in price determination to date, has engendered a situation where the interest of the subscribers are not adequately taken into consideration.

It is a plain fact that telephone carriers incur a myriad of unofficial costs in the form of kickbacks and demands by people in authority to offer free services, naturally, these costs are built into prices of mobile telephone services; this paper recommends that the unofficial costs in whatever style or nature that drives up the cost services, should be eschewed and possibly be criminalized and made punishable, this development it is hoped, would enable telephony companies to charge costs that are less than what is obtainable today in Africa.

Aside from the recommendation of liberalization, this paper strongly proffer the removal of roadblocks to the mobile telephone market such as onerous licensing requirements, set-up costs, heavy taxations, deposits requirements and stringent rules as well as cumbersome procedural standards, all of which serve as a barrier to free mobile telephone market.

Finally, the last but not the least in the list of recommendations targeted at bringing down the cost of mobile telephone services, is that African governments should without further delay, remove the astronomical and patiently unreasonable customs and excise duties levied on telecommunications equipment and accessories at the ports of entry

This paper is of the opinion that sending unsolicited messages in the form of advertisements, ringtones and general information without the consent of the subscribers constitute crass abuse and incursion into subscribers' privacy, ditto is unauthorized deductions; Africa should take a cue from the provisions of Telephone Consumer Protection Act, Laws of USA and follow suit to address once and for all, this anomaly.

With regards to the enforcement of SIM card registration, this paper is in all fours with steps taken by African governments to date; it is not persuaded by submissions that such regulations are not in Europe or elsewhere; Africa is not Europe and Europe cannot be Africa; in Europe, even without the mandatory SIM card registration, there exists data bank and sophisticated means of knowing who is who which enables abusers and misuse of mobile phones to be tracked, unlike in Africa where adequate data collection, storage and retrieval is almost a mirage. 22

Having said that, it is hereby recommended that the rules regarding the provision of mandatory identification card should be relaxed, especially in rural areas where the level of literacy is very low, in effect, the use fingerprints and formal identification by traditional rulers, family or clan heads as well as local governments' officials is recommended. In addition to the foregoing, in order not to exclude

1 See <http://www.edition.cnn.com/2011/health/05/31/who.cell.phones/index.html>

2 See http://www.naturalnews.com/041765_cell_phones_EMF_radiation_protection.html. See also <http://www.emf-health.com/articles-10tips.htm> and <http://www.cancer.gov/cancertopics/factsheet/risk/cellphones> 21

rural dwellers from the advantages which are concomitant with mobile telephones, it is recommended that telephony operators should issue identifications cards which said cards, for official purposes, are endorsed by local councils to authenticate them.

For the recurring issue of service disruptions, this paper recommends that telephony companies should constantly upgrade their equipment and be more innovative, given the pace of rapid technological advancements in telecommunications infrastructures especially the mobile telephony. Where disruptions are imminent and beyond their control, subscribers□ deserve to be adequately notified; it is also necessary for the subscribers□ to be compensated for service failure and more importantly, it is pertinent that telephone carriers regularly hold Service Provider-Subscribers□ Forum on a regular basis, so as to iron out contentious issues and remedy some of the problems encountered by the subscribers; this development would lessen the tension associated with service failures and create a more conducive partnership, between the stake holders as well as improve the level of quality service, in Africa mobile telephony.

The Service Provider-Subscribers□ Forum should also be used as a vehicle of creating awareness, education and information as to the rights, privileges and obligations of subscribers□, this would actualize the dream of adequate protection for African mobile telephone subscribers□ largely because, it is only when subscribers□ are fully aware of their rights that they can request for same.

Poor network coverage is particularly prevalent in rural areas because the telephone carriers□ profit motive would not manifest thereof, it is recommended that governments□ should make it mandatory for the telephony companies to invest in rural areas as part of their social responsibility; by and large, the urban population invariably depends on agricultural and dairy products from the rural areas, besides, making it compulsory for the telephone companies to invest in rural areas is akin to bringing development to the door step of the rural people.

As elsewhere pointed out before now, data privacy should be enforced and misuse of data and information should be criminalized and made punishable by prison term; this would go a long way to acting as a deterrent to telephone operators, who might be inclined to indulge in such practices.

The right of unfettered access to court is an index of a true democracy and rule of law; in an attempt to ensure that African mobile telephone subscribers□ are well protected, the stumbling blocks along the road to justice should be freed by further relaxation of the standing rule, drastic reduction in filing fees and lessening of the procedural rules of the 23 courts, also, accelerated hearing is highly recommended and a special section in the commercial courts are suggested to handle telecommunications cases, this is because we are in the information and communication age, all businesses whether profit or non-profit, depends on information and communication.

Given the advantages hitherto discussed of ADR over litigation, this paper recommends that ADR bodies should be set up to specifically handle subscribers□ complaints relating to service failures, service disruptions and associated issues, such bodies should comprise of subscribers□ representatives who would protect their interest in terms of ensuring that telephony companies, are actually made to render quality services and where necessary, to adequately compensate subscribers□.

For the avoidance of doubt and clarity of expression, this paper hereby reiterate that the starting point in mitigating the woes of subscribers□ of mobile telephone in Africa is putting in place the necessary laws and regulations, this is the foundation stone on which the other building blocks of protecting the teeming population of African subscribers, would comfortably rest.

THE RIGHT TO CLEAN ENVIRONMENT IN INTERNATIONAL LAW THE CASE FOR CLIMATE CHANGE

By
Kato Paul Mukasa

ABSTRACT

In this paper, I discuss the topic: The right to clean environment in international law, the case for Climate change. In the introduction, attempt is made to define environment from an international perspective and in the same vein, climate change is equally define. In the subsequent discussion, the legal framework or regime in light of the right to clean environment is discussed at the global level, it is then narrowed down to Africa and further more to Uganda. Again an attempt is made to show the gaps in the existing laws as a means of raising awareness to the need for further action to ensure that the said right is not lip service. Case law is relied on to show especially how litigation has been done to ensure that the right to a clean environment is achieved globally. Challenges exist in this regard but there is hope that the existing legal regime can help the aggrieved party to achieve justice.

1. INTRODUCTION

International environment law is a discret of public international law marked by the application of principles which have evolved in the environmental context, such as the precautionary and harm principles, yet also forms part of, and draws from the general corpus of public international law.

Article2(10) of the1993 Council of Europe Convention on Civil Liability for Damage Resulting from Activities Dangerous for the environment defines environment to include “natural resources both abiotic and biotic,such as the air ,water ,soil,fauna and flora and the interaction between the same factors;property which forms part of the cultural heritage; and the characteristic aspects of the landscape”.

2. CLIMATE CHANGE AND THE RIGHT TO CLEAN ENVIRONMENT

Elli Louka (2006) extensively discusses the topic of climate change and I will use his writing handle this issue.Climate change involves the change in earth’s atmospheric temperature because of emission of various pollutants and, especially, carbon dioxide (CO₂). It is claimed that climate change would cause significant environmental problems, such as increased desertification, the flooding of small islands and other unforeseeable environmental disasters. Most scientists agree today that the earth’s temperature has been affected in a discernible manner by various pollutants, but the extent of the change or whether it would bring global or regional detrimental effects is still severely contested.

Large emitters of carbon dioxide, such as the United States, have contested the severity of the greenhouse problem and have proposed to address it not only by cutting emissions of pollutants but also by regulating land use (such as decreasing the amount of deforestation in developing countries, or planting new trees). At the other extreme, the EU has attempted to deal with the problem as a source problem by pursuing emissions reductions. The greenhouse effect, to which the climate change is attributed, is a natural phenomenon. It happens because naturally occurring greenhouse gases in the atmosphere absorb heat and then emit it back to the earth. As such, the phenomenon is beneficial because, without it, the earth could be a cold planet deprived of life as we know it. The problem is that the increase in the anthropogenic sources of greenhouse gases has destabilized the natural balance between the emissions of greenhouse gases and their removal by sinks (e.g., forests), thereby creating fears of climate change.

Not all countries are expected to be impacted similarly by climate change. Countries that are most threatened include those that are close to the sea – therefore, vulnerable to the rise in sea levels – and countries prone to flooding. Thus, small island states, Bangladesh, and the Netherlands could be affected substantially. China, Russia, Northern European countries, and Canada might benefit through increases in agricultural production. Some studies have indicated possible increase in agricultural production in the United States as well. The costs of abating climate change would be felt mostly in countries that produce greenhouse gases, such as the United States, Canada, China, India, Russia, Japan, and Germany. By 2015, China would be the largest producer of CO₂ and India the second.

Taking action against the consequences of climate change would be costly but this must be done.It is a process that involves negotiations. In 1988, governments took action by asking the WHO and the

UNEP to establish an Intergovernmental Panel on Climate Change (IPCC). In 1990, the IPCC issued its first report that stated clearly that if states continue business as usual, the global temperature will rise in the next century by an average of 0.3 degrees C per decade – a rate of change that has never been encountered before in human history. The report of the panel provided the scientific impetus for the adoption of the Climate Change Convention. The Framework Climate Change Convention was the result of the negotiating wrangling among states. The convention, an outcome of efforts to include, in a single document, diverse outlooks and interests of states, is an opaque international instrument.

The adoption of the framework convention was followed up by a protocol that set up specific targets and timetables for reducing specific greenhouse gases. The Kyoto Protocol tackles the emissions of six greenhouse gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF₆). The commitments made under the Kyoto Protocol were fleshed out during the Marrakesh Accords that provided explicit details on the joint implementation mechanism, the clean development mechanism, and emissions trading. Negotiations during Kyoto involved some of the same dynamics that characterized the negotiations that led to the Climate Change Convention. Then the Convention on Climate Change came into effect. The Climate Change Convention is a framework convention. Its purpose is to set the general tone for the future climate change discussions and to compromise in a single text the often irreconcilable interests and ideologies of state parties. Because of this reality – a reality for every framework convention – the convention straddles the world of firm commitments and vague hortatory articulations.

Article 4 surprisingly contains in its title the word “commitment.” Article 4 is overall a procedural article, but it is not deprived of substance. It provides, for instance, that state parties must establish national inventories for greenhouse gas emissions and removals by sinks by using comparable methodologies.

The Kyoto Protocol brings to the climate change regime the specific commitments that were obfuscated in the Climate Change Convention. Developed countries of the protocol shall ensure that their carbon dioxide and other greenhouse gas emissions do not exceed their assigned amounts.

3. DISCUSSION

It should be noted that globally; more than two million annual deaths and billions of cases of disease are attributed to pollution. Again, nearly half a billion people, mainly women and children in poor rural areas live in severely polluted environment and it is worth noting that annually, 500 million premature deaths can be attributed to the high levels of pollution in the cities. In short, this simply reminds us the fact that we all have a right to clean environment regardless of the existing climate change. It is important that the relationship and the interaction between environment issues and human rights should be looked at related since environmental degradations is also linked to human rights violations.

It is argued here that there is a human right to a clean environment and this right is internationally recognized. It is also argued here that we need to start approaching environmental problems from a human rights point of view. We further note that the human rights system already provides for various courts, commissions and other bodies that enable individuals to raise human rights and associated environmental issues.

It is noted again that many environmentalists argue for the recognition of a specific environmental right based on the fundamental human needs for clean air and water, a stable climate system and more generally, an environment conducive to human life and health. Many African governments today do recognize the right to a clean environment in their human rights systems.

The right to clean environment in international law is emphasized through a number of international legal instruments. Foreexample in 1954, the International Convention for the Prevention of Pollution of the Sea by Oil was made and came into force to protect the environment against pollution and in a way to assert the right to clean environment internationally.

The laws against dumping waste were made several years ago. Foreexample in 1972 London (Dumping) Convention, the 1979 Convention on Long –Range Tran boundary Air Pollution among other dates from this period with an ultimate aim of ensuring that humanity has a guaranteed right to clean environment .

In order to handle the complex issue of climate change several legal instrument are in place. The 1992 United Nations Framework Convention on Climate Change, the 1997 Kyoto Protocol as well as the 1973/78 Convention for the Prevention from Ships (MARPOL).

In order to emphasize the right to clean environment, the Climate Change Convention recognizes the common but differentiated responsibilities and respective capabilities of states in implementing the obligation to protect and preserve the climate system for the benefit of present and future generations according to article 3(1). Emphasis is that developed countries /parties should take the lead in combating climate change and the adverse effects thereof and under the Kyoto Protocol developed countries /parties are subject to specific targets and time tables for green house gas emission reduction.

In my discussion, I chose the **right based approach** to environment protection since I am convinced that it is this approach that can deliver the much needed sustainable development.

3.1 Human Rights Applicable to the Environment in Line with the Right to a Clean Environment

The right to clean environment is a human right related to the environment. In the same line, we talk about the civil, political, economic, social or cultural rights. The right to a clean environment is also related to the civil and political rights which include the right to life, the right to privacy and the right to home life as well as the right to equality and non discrimination. Each country is expected to respect these rights and implement them as well and their implementation in most cases depends on the level of development of a particular country.

4. LEGAL FRAMEWORK TO THE RIGHT TO A CLEAN ENVIRONMENT-GLOBALLY

The right to a clean environment is also elsewhere termed as a Right to Decent Environment. This right is expressly recognized by two regional human rights treaties: The African (Banjul) Charter on Human and People's Rights and the San Salvador Protocol to the American Convention on Human Rights.

The General Assembly of the United Nations, sitting on 10 December 1948 adopted and proclaimed the Universal Declaration of Human Rights also known as the 1948 Universal Declaration. The UDHR has all its 30 articles proclaiming in clear and simple terms the fundamental rights which equally apply to all human beings and through this declaration, we note that individuals become subject of international law in their own right.

The 1948 Universal Declaration was followed in 1966 by the adoption of two human rights covenants namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights. UN has its experts on the UN Human Rights Committee that supervise state implementation of and compliance with the 1966 ICCPR and the same committee can hear individual complaints a state party thus individuals can sue their governments when they realize that the action of such a government threatens their right to a clean environment, their right to life of the present and future generations yet it is an obligation of the state parties to protect human life.

The committee of the International Covenant on Economic, Social and Cultural Rights (of individuals and groups) supervises implementation of this covenant. Examples: In 1995, Ukraine reported on the environmental situation following the explosion at Chernobyl nuclear reactor which regard to the right to life. Similarly, the Committee members may also ask for specific information related to environmental harm that threatens human rights. In 1989, Poland was asked to explain its measures to combat pollution in Upper Silesia.

Furthermore, we note that the link between environment and human rights began to appear as early as 1972 specifically in the Stockholm Declaration on Human Environment, which in part states that; "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well being..."

Furthermore, Principle 1 of the 1992 Rio Declaration on Environment and Development provides that: "Human beings are at the centre of concerns of sustainable development. They are entitled to a healthy and productive life in harmony with nature."

This implies that sustainable development and environmental protection can not be achieved independently from human development.

Furthermore, the 1982 World Charter for Nature was one of the first declarations that recognized the right of individuals to participate in decision making and to have access to means of redress when their environment had suffered damage or degradation. We note that ten years later, in 1992, Principle 10 of

the 1992 Declaration on Environment and Development stated the need for the individuals to participate in decision making as a way for asserting their right to clean environment.

The Aarhus Convention builds on Principle 10 of the Rio Declaration and on Principle 1 of the Stockholm Declaration whose preamble states that every person has the right to live an environment adequate to his or her health and wellbeing, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations.

Furthermore, the Aarhus Convention provides for a comprehensive right to public participation in environmental decision making and a right of access to environmental information. The same Aarhus Convention also provides for a right of access to the courts in environmental matters, ensuring that decisions relating to participation and access to information may be challenged.

5. LEGAL REGIME ON THE RIGHT TO CLEAN ENVIRONMENT IN AFRICA

At the level of the African continent, it should be noted that the principal African organization which addresses environmental matters is the African Union, formerly the Organization of African Unity (OAU), which was established in 1963 to promote the unity and solidarity of African states and to coordinate co-operation to achieve a better life for the people's of Africa. The AU has supported the adoption of a treaty on the conservation of nature and natural resources, that is the 1968 African Nature Convention as well as the treaty on Trade in and Management of Hazardous Waste set up through the 1991 Bamako Convention.

The African (Banjul) Charter of Human and Peoples' Rights (the 1981 African Charter) Article 24 states: "All peoples shall have the right to a general satisfactory environment favorable to their development"

We further note that Africa has a commission (The African Commission on Human and Peoples' Rights) whose role is to promote and monitor human rights in member states by researching specific situations, organizing seminars, giving recommendations to states, laying out human rights principles and cooperating with other international organizations. The same commission also hears individual complaints in regard to environment cases.

Then, in Africa still, we have the Charter on Human Rights and Peoples' Rights whose chapter 7 talks about environment protection and we then have the 1991 African Economic Community which also have environmental provisions. There is the UN Economic Commission for Africa but we have also other organizations keen on environmental protection such as the African Development Bank, the Arab Bank for Economic Development in Africa, the Economic Community for African States and the Intergovernmental Authority on Drought and Development as well as the South African **Development Community** that was established in 1992 and has already adopted protocols on shared watercourses, wildlife conservation and law enforcement. Above all, regional bodies have also been established to manage shared natural resources.

6. WEAKNESSES IN THE LEGAL REGIME TOWARDS THE RIGHT TO A CLEAN ENVIRONMENT

We however note that the European Commission on Human Rights of 1950 (which ceased to exist with the procedural reforms of 1998) does not contain any specific rights to a clean environment. Similarly, the European Social Charter does not contain any right to environmental quality and the former European Commission on Human Rights held that such a right can not be directly inferred from the 1950 ECHR.

We also note that a similar radical approach against the right to clean environment in general was taken by the European Union at its Nice Summit. The Charter of Fundamental Rights of the European Union, adopted during the Summit on 7 December 2000, omits environment protection from its listed rights of persons and duties of member states. It should be noted that the Charter simply provides in article 37 that "*A high level of environmental protection and the improvement must be integrated into policies of the Union and ensured in accordance with the principle of sustainable development*".

7. THE RIGHT TO A CLEAN ENVIRONMENT, THE CASE FOR UGANDA

The right to a clean environment is guaranteed in article 39 of the Constitution of the Republic of Uganda where it is stated that: *'Every Ugandan has a right to a clean and healthy environment'*.

It goes without saying that the government of Uganda is under an obligation to protect the environment and ensure that the right to a clean environment is attained. The 1995 Constitution puts the Government under an obligation to protect the environment from abuse and degradation, to conserve the environment and to restore the environment where it has been polluted or degraded. Article 245 of the same Constitution enjoins the Government to make laws that will ensure that the environment is protected.

Again, it is important to note that Article 50 (1) of Uganda's constitution not only grants locus standi to any person whose fundamental or other right, which in this case also includes a right to a healthy and clean environment, has been violated, but also gives locus to bring an action where such a right is under threat. This implies that any person can go to court to protect the environment from degradation and to assert his or her right to a clean environment. It is also worth noting that Article 50 (1) acts both as a shield and a sword. This means that one does not have to prove injury or damage. Legally speaking, this means that proof of threatened injury or damage is enough not only to bring an action, but also to obtain a remedy.

Since 1986, there have been some positive strides to protect the environment in Uganda. The government of Uganda created the Ministry of Environment Protection (MEP). In 1991, the Government of Uganda launched the National Environment Action Plan (NEAP). It intended among other things, to provide a frame work for integrating environmental considerations broadly defined to include natural and man made environments, into the country's overall economic and social development. In 1994, the Government of Uganda approved the National Environment Management Policy (NEMP), the first of its kind in Uganda's history. In 1990, Uganda begun formulating the National Policy for Conservation and Management of Wetland Resources, becoming the second country after Canada to adopt such a policy. These were later followed by the National Water Policy, the Water Action Plan and the Water Act of 1995.

By 1995, Parliament had enacted a law to provide for sustainable management of the environment. The National Environment Act (No. 4 of 1995) was enacted in May, 1995. The Act established the National Environment Management Authority (NEMA,) whose functions, among others are to co-ordinate, manage, monitor and supervise all activities in the field of environment, making NEMA the principal agency of government, for the management of the environment.

Regardless of the positive strides to protect the environment from degradation, Ugandans continues to be victim of environment mismanagement and the resultant effects such as increased pollution, and long spells of droughts and complete lack of rain even in seasons when it used to rain is an indicator that the right to clean environment is no longer guaranteed.

For emphasis, it should be noted that deforestation is widespread in Uganda. By 1890, Uganda was estimated to have forest and woodland cover of 45% of its land. Currently, Uganda has only 21% of its land covered by forests, including woodlands. Of this, 7.7% is gazetted forests, out of which 3% tropical forests. There is a wide loss of forest cover due to high wood fuel demand for cooking, brick making and mining especially lime production. Approximately 96% of the total quantity of energy consumed in the country is provided by woody biomass which is mostly fuel wood. Sadly there is too much encroachment of the forest cover for agriculture especially because of the increasing population that is predominantly agriculture based.

With the increasing population in Uganda from about 16 million people in 1991 to over 36 million people today (2015), Uganda today experiences the several environment problems, which can be attributed to certain direct human activities. Soil degradation has become more pronounced particularly in the highland areas. This is manifested through soil erosion and leaching leading to loss of soil nutrients and hence low agricultural productivity. The increasing industrialization in the urban centers has led to much pollution and the current rural to urban migration has contributed to extensive encroachment on wetlands which many urban dwellers has destroyed and constructed houses. Land fragmentation and deforestation has increased environmental destruction and thus the right to a clean environment is no longer guaranteed under the existing circumstances.

8. SOME CASES TO CONSIDER

8.1 Case one: *Lopez- Ostra v Spain (1994)*

Ms. Ostra's flat in Lorca, Spain was situated within 12 meters of a waste disposal plant. She alleged that the plant emitted fumes, noise and smell that made her family's living conditions intolerable and caused her and her family serious health problems. Expert stated that hydrogen sulfide emissions from the plant exceeded the permitted limit and could endanger the health of those living nearby. This supported the contention that there could be a casual link between these emissions and the applicant's daughter's illness. The Court applied a test based on article 8 of the ECHR, the right to privacy, which attempts to balance competing interests of individuals against those of the community as a whole.

The Court further stated that severe environmental pollution, even without causing serious damage to health, could affect the well being of individuals and impede their enjoyment of their homes in such a manner as to have an adverse effect on their private and family life. The Court found that Spain has not fulfilled its duty to take reasonable and appropriate measures to secure the applicant's rights. The Court concluded that the state (Spain) did not strike a proper balance as between the individual and public interests or between private well being and general economic concerns and that Spain had violated article 8 of the ECHR. This decision is very important because it poses an obligation on the state to not only refrain from interfering but to actively protect human rights.

8.2 Case Two: *Maria Guerra v Italy (1998)*

In this case the Court re affirmed that article 8 of ECHR can impose positive obligations on states to ensure that respect for private or family life is ensured. In this case, the court cited the Lopez Ostra case and reiterated that: "*severe environmental pollution may affect individuals' well being and prevent them from enjoying their homes in such a way as to affect their private and family life*"

8.3 Case Three: *The Ogoni Case, 2002.*

Two Non- Governmental organizations on behalf of the people of Ogoni land, Nigeria filled a petition against Nigerian government to the African Commission on Human and Peoples' Rights and on May 27, 2002. The Complainants alleged that the military government of Nigeria was involved in oil production through the NNPC in consortium with the SPDC and the operations produced contamination causing environmental degradation and health problems. It was further alleged that the consortium disposed of toxic wastes in violation of applicable international environmental standards and cause numerous avoidable spills near villages and in effect it poisoned much of the regions' soil and water and that government aided these violations by placing the state's legal and military powers at the disposal of the oil companies. Having found the petition admissible, the commission found that Nigeria had breached its obligations to respect, protect, promote and fulfill rights guaranteed by the 1981 Africa Charter. Applying the obligations above to the facts of the case, the commission concluded that although Nigeria had the right to produce oil, the state had not protected the articles 16 and 24 which give rights to a clean environment to those in the Ogoni state. The above ruling offers a blue print for merging environmental protection, economic development and guarantees of human rights.

8.4 Case Four: *The Minors Oposa v Secretary of the Department of Environment and Natural Resources (1993) Case.*

The plaintiffs were a number of minors together with the Philippine Ecological Network, a non- profit organization. Their claim to a right to a clean environment was dismissed at the first instance and they petitioned the Supreme Court which reversed the ruling and the case was returned to the lower court. The Supreme Court noted that the minors represented their generation s well as the generation to come (generation yet un born) and the court ruled that:

"their personality to sue on behalf of the succeeding generation can only be based on the concept of intergenerational responsibility in so far as the right to a balanced and healthful ecology is concerned...a generation has a responsibility to preserve the environment for the next generation..."

In the case, the Supreme Court based its argument on two important pillars: the human right to a clean environment as enshrined in the Philippine Constitution and the concept of intergenerational equity. The court stated that the right to a sound environment is a self executing constitutional policy.

8.5 Cases from Uganda

In Uganda, it is worth noting that several cases in regard to the right to a clean environment has been heard by court and in most cases success has been obtained by the aggrieved parties. Examples of such cases are: *TEAN vs. Attorney General And NEMA* (Misc. Application No. 39 of 2001), (Non-Smokers Rights Case. This was an action brought on behalf of non-smokers for declarations that smoking in public places violated the non-smokers constitutional rights to a clean and healthy environment and to life.) and *TEAN v B.A.T.* (Misc. Application No. of 2002) (Warning Labels), and in *Greenwatch v Attorney General* (Misc. Application No. 140 of 2002) (on polyethylene carrier bags) among others.

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COMPARATIVE ANALYSIS OF PERFORMANCE MEASUREMENT OF NIGERIAN BANKS UNDER IFRS AND NIGERIAN GAAP

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ABSTRACT

The globalization of business had necessitated international financial reporting benchmark in order to present a globally accepted and high quality financial statement. The International Financial Reporting Standard (IFRS) requires an entity to explain how the transition from local GAAP to IFRS affects its reported financial statements. However, accounting under IFRS and Pre-changeover Nigerian GAAP hampers the consistency of items of financial statements due to application of fair value accounting. This study examines the impact of IFRS adoption on the performance measurement of Nigerian Banks using financial ratios selected from four major categorizations of financial ratios. The study was conducted through comparison of ratios computed from IFRS based financial statements and Nigerian GAAP based financial statements for the 2011 year of transition to IFRS. The Kolmogorov-Smirnov and the Shapiro-Wilk tests were used to determine the normality of the data. Dependent Sample t test and Wilcoxon signed-rank test were employed in testing whether significant difference exists between the pair of ratios for normal distribution data set and non-normal distribution of the data set respectively. The results of both statistical tests show that there is significant difference between the pair of ratios at 5% level of significance for liquidity and investment ratios but not statistically significant for profitability and capital structure ratios. It was concluded that the differences in the adoption of IFRS on the profitability and capital structure measurement parameters in banking sector are not statistically significant but liquidity and investment performance measurement are statistically significant. Consequently, the study among others recommends that analysts and other financial statement users should be mindful of the new features of financial statement when taking economic decisions as related to the adoption of IFRS in Nigerian banking sector.

Keywords: IFRS, Financial Ratios, Nigerian GAAP, Diffusion of Innovation Theory

1. INTRODUCTION

Governments across the world engage in a wide range of reviews that recognize the importance and spread of corporate reporting as well as governance framework by reassuring the financial markets and the public interest in internalization of transactions. These trends had necessitated global financial reporting benchmark (Josiah, Okoye and Adediran, 2013). However, this could only be achieved with the help of good accounting policies that provide direction and guidance on how business enterprises could achieve the goal of proper record keeping, transparency, uniformity, comparability and enhancing public confidence in financial reporting (Vantendeloo and Vanstraelon, 2005).

The introduction of an acceptable global high quality financial reporting standards were initiated in 1973 when the international accounting standard committee (IASC) was formed by 16 professional bodies from different countries. This body was later transformed in 2001 into the International Accounting Standards Board (IASB) and has developed accounting standards and related interpretations jointly referred to as the International Financial Reporting Standards (IFRS) (Azobi, 2010).

In compliance with IFRS, IFRS 1 requires an entity to explain how the transition from local GAAP to IFRS affects its reported financial statements. It also requires an entity to prepare and present an opening statement of financial position at the date of transition to IFRS. This requirement will result into two comparative financial statements for that period. However, the fundamental difference in application of fair value accounting under IFRS and Pre-changeover Nigerian GAAP hampers the consistency of items of financial statements (Anna-Maija, 2011). The fair value accounting causes adjustment in the financial statements and thus making the financial statement to differ from what it used to be. Consequently, problem of comparability and measurement of company performance might have emerged (Pawel, 2011)

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The differences between IFRS and pre-changeover Nigerian GAAP regimes in the preparation and presentation of financial statement lead to differences in financial ratios which are the key indicators for measuring organisation's financial performance. These differences in the financial ratios impair the comparability and measurement of the company's performance (Anna-Maija, 2011).

Basically, performance, stability and liquidity are the crux of survival of a business. The impact of the adoption of IFRS on these measures may reshape the continued existence of a business as users of financial information now depend on the IFRS based financial data. If better profits are reported under IFRS, it gives an indication that NGAAP may have been underestimating companies' performance which may perhaps lead investors to the rational conclusion regarding the business reports. In addition, creditors' decision to advance further credits will also be affected by the significance difference found between the liquidity measures under the standards. More so, prospective investors will rely on the leverage ratio as well as return on investments to speculate their fortunes in the firm. Therefore, the overall effect of these changes will affect the financial and economic decisions of various users of financial information.

Based on the problems identified above, the study attempts to provide answer to the following research questions:

- i Does the adoption of IFRS stimulate changes in the profitability performances parameter of Nigerian Banks?
- ii. Does the liquidity measurement parameter change with the adoption of IFRS in the Nigerian banking sector?
- iii. Is the adoption of IFRS has effect on the Capital structure measurement parameter of Nigerian banks?
- iv. Does the investment measurement parameter prepared from IFRS financial statement significantly difference from the investment measurement parameter prepared from Nigeria GAAP?

In order to provide answers to the research questions, the following hypotheses are tested.

- H₀₁. The profitability performance ratios shown by financial ratios prepared from IFRS financial statement does not significantly differ from those prepared from Nigeria GAAP.
- H₀₂. There is no significant relationship between the liquidity measurement parameter computed under the two standards.
- H₀₃. There is no significant relationship between the capital structures measures of the financial ratio computed from the two standards.
- H₀₄. The investment returns measurement parameter prepared from IFRS Financial statement does not differ significantly from ratios with investment returns measurement parameter prepared from Nigeria GAAP.

The remaining part of the study is structured as follows. Section two provides the review of related literature. Section three provides the methodology of the study. Section four presents the research findings, while the Conclusion and recommendations constitute the last section.

2. LITERATURE REVIEW

2.1 Regulatory Framework and Accounting Standards in Nigerian Banking Sector

The banking system in Nigeria was based on the British banking system which began operation during the colonial era. Commercial banks commenced in 1872 by the British treasury by creating the first bank (known as the African Banking Corporation (ABC). In 1874, another bank, called the Bank of British West Africa (now First Bank of Africa) was established and automatically overtook the former bank's operations. These banks functioned for the British colonial masters so as to provide banking services and administration in Nigeria at that period (Woldie, 2003; Ojukwu-Ogba, 2009).

After independence and creation of the Central Bank of Nigeria in 1959, the regulatory structure of Nigerian banks turned towards developing local banks for the populace. However, numerous banking

firms brought about several bank runs and unregulated and under-supervised banking services led to several economic impediments for the country (Ojukwu-Ogba, 2009).

Other banking developments and laws established include: Banking Ordinance in 1952; The creation of Nigerian Deposit Insurance Corporation (NDIC) in 1988; Prudential guidelines for banking firms in 1990; The enactment of the Banks and Other Financial Institutions Act in 1991; Failed Banks decree in 1994; The amendment of the Central Bank of Nigeria and NDIC Acts in 1997; Money Laundering Act in 2003; Banking Consolidation in 2005 and Central Bank of Nigeria (CBN) Code of Corporate Governance for Banks in Nigeria Post Consolidation in 2006 (Hassan, 2011; Okezie et al., 2011; Oladejo and Oladipupo, 2011).

The Nigerian banking sector is controlled by the Nigerian Banking Sector regulatory agencies. These regulatory/supervisory authorities include: The Federal Ministry of Finance; Central Bank of Nigeria; Nigeria Deposit Insurance Corporation; and Securities and Exchange Commission (Onyido, 2004). The establishment of the central bank of Nigeria (CBN) in 1959 presents a ground for the adoption of monetary management strict legal framework and regulation and improved institutional facilities for supervision. Despite these developments, Nigerian banks still faced an uphill task of maintaining bank stability and performance that can be at par with its counterparts in Africa and beyond. According to Hassan (2011), Nigerian banks can be reformed effectively if there is an efficient regulation of banks implemented and enforced by the bank management. Moreover, Barth et al. (2004; 2006) also explained that banking firms in developing countries like Nigeria find it difficult in gaining people's confidence, as it is difficult for people to keep their money in banks due to distrust of the banking system in Nigeria.

Adeyemi & Asaolu (2013) concludes that the only way out from these problems is to ensure full disclosure in the banking sector which is the other side of the same coin with transparency. Accounting disclosure is raised to a particularly high level of importance for banking organizations compared to non-financial firms because they are inherently more opaque (World Bank, 2006). Accounting reports are almost the sole source of information for bank investors and other stakeholders as it include public information on bank regulations and on safety net operations of the Central Bank (Rogers, 2008).

2.2 Tools of Analysis of Financial Statement

According to Drake (2010), financial statement analysis is the selection, evaluation, and interpretation of financial data, along with other pertinent information, to assist in investment and financial decision-making. Moreover, it is also the process of identifying financial strengths and weaknesses of the firm by properly establishing relationship between the items of the financial statements. Financial statement analysis is used by investors, creditors, security analysts, bank lending officers, managers, taxing authorities, regulatory agencies, labor unions, customers, and many other parties who rely on financial data for making economic decisions about a company (Delta, 2012). Analysis of financial statements focuses primarily on data provided in external reports plus supplementary information provided by management which concerned major changes or turning points in trends, amounts, and relationships. However, the basic tools and techniques of financial statement analysis can be effectively applied by all of the interested groups. ICAN, (2012) opined that Analysts and Interpreters of financial statements usually employ a combination of the following items: Financial Ratios; Cash Flow Statement; Value Added Statement; Profit and Loss Account (Statement of Comprehensive Income); Balance Sheet (Statement of Financial Position) and Notes to the Accounts.

Financial ratio analysis (FRA) involves comparing one figure against another to produce a ratio and assessing whether the ratio indicates a weakness or strength in the company's affairs (ICAN, 2012) and can be classified into various groups according to the purpose for which they are intended to be used. The ratios assist in measuring the firm's profitability while others are useful in assessing the liquidity and solvency of the firm. Yet, some aid in appraising the financial structure of the firm (ACCA, 2012). The main advantage of FRA is its ability and effectiveness in distinguishing high performance banks from others and the fact that FRA compensates for disparities and controls for any side effect on the financial variables being studied (Samad, 2004). Additionally, financial ratios can be used to identify a bank's specific strengths and weaknesses as well as providing detailed information about bank profitability, liquidity and credit quality policies (Hempel, Simonson and Coleman, 1994; Dietrich, 1996).

Tugas, (2012) emphasized that there are five categories of ratios used in financial statement analysis. These are: (i) liquidity ratios, which measure a firm's ability to meet cash needs as they arise; (ii) activity ratios, which measure the liquidity of specific assets and the efficiency of managing assets; (iii) leverage

ratios, which measure the extent of a firm's financing with debt relative to equity and its ability to cover interest and other fixed charges; (iv) profitability ratios, which measure the overall performance of a firm and its efficiency in managing assets, liabilities, and equity (Fraser & Ormiston, 2004); and (v) market value ratios, which bring in the stock price and give an idea of what investors think about the firm and its future prospects (Brigham & Houston, 2009). This is also in line with Delta, (2006) classification.

However, ratios should be used in conjunction with other information relevant to the interpretation of the financial statements of any particular organisation. The overall usefulness of ratio analysis depends very much upon the ability of the analyst to use the result of the ratios calculated along with all other relevant information, bearing in mind the nature of trade (or business) carried on and the type of circumstance surrounding each case (ICAN,2012).

2.3 Theoretical Framework of Financial Reporting

Various theories including general purpose accounting theory, stakeholder holder theory, agency theory, adoption theory, social comparison theory are often used for financial reporting issues. However, in an attempt to place this study on a sound theoretical framework, the diffusion of innovation theory was adopted

The theory which focused on the process of adopting new innovations has been studied for over 30 years since its formulation by Roger and is acclaimed as one of the most popular adoption models used in the social and information sciences literature (Sherry & Gibson, 2002). Plethora of research reports in different areas of various disciplines has used the model as a framework for explaining or predicting the relationship among their research variables. Dooley (1999) and Stuart (2000) mentioned several of these disciplines to include; political science, public health, communications, history, economics, technology as he described Rogers' theory as a widely used theoretical framework in the area of technology diffusion and adoption. Rogers defines diffusion as "the process in which an innovation is communicated through certain channels over time among the members of a social system". As expressed in this definition, innovation, communication channels, time and social system are the four key components of the diffusion of innovations (Sahin, 2006).

Although Rogers' diffusion of innovations theory is most appropriate for investigating the adoption of technology in higher education and educational environments (Parisot, 1995 and Medlin, 2001). This theory can as well be adapted to the accounting profession especially as the innovation of a global reform of financial reporting is communicated to the world accountants through the pronouncement of new sets of technical standards (IFRS) to be adopted world over. During the current regime when the profession is taking up new international accounting standard, the adoption of IFRS seems to be more than mere accounting exercise since it permeates beyond accounting and reporting aspects of adoption process which, according to KPMG (2011), represent only approximately three quarter of conversion efforts.

2.4 Empirical Review

A sound financial reporting system, supported by high quality accounting and auditing standards and backed by a solid regulatory, governance and ethical framework, is a pre-requisite for economic development (Welch, 2011). KPMG (2011) asserts that switching to IFRS result in many changes to the reported performance, financial representations and outcomes of business organization. Lantto and Sahlström (2009) provide evidence that adoption of IFRS in developed countries has an impact on their accounting figures. However, they also suggest that IFRS and Domestic Accounting Standards (DAS) of continental European countries differ considerably, which might not be the case between IFRS and UK GAAP, as both standards have many common characteristics.

Asbitt (2006) discovers that, in UK, although there was a little overall effect of IFRS on financial statements of 100 companies, the change in certain items could be significant. According to her study, the standards that have the biggest effect on net equity were IAS 19 – *Employee benefits* (7% impact), IAS 16 – *Property, plant and equipment* (with 11% impact), IAS 12 – *Income taxes* (with 6% impact), IFRS 3 – *Business combinations* (with 4% impact) and IAS 39 – *Financial instruments: Recognition and Measurement* (with 4% impact). Moreover, she also noticed that within these changes there were quite noticeable variations, for instance, a 113% standard deviation of goodwill or 79% standard deviation of IAS 16.

Dunne *et al.* (2008) discover that most problematic standards in implementation were: IAS 39, IAS 19, IAS 36, IAS 38, IAS 12, IAS 14/IFRS 8, IFRS 2 and IFRS 3. They explain that most of these problems in implementation were because the accounting requirements were new and different and very often required fair values of external data or key assumptions to be made to implement these standards. The users of IASB's standards usually perceive them as very complex. Consequently, possible errors at the date of transition could be also possible.

Taking into account the results of Asbitt (2006) and Dunne (2008) study as well as information about existing differences between accounting standards covered above, it can be inferred that standards which differ the most and which as a result might have the most significant impact on accounting figures, are those where fair value accounting is incorporated.

Callao, Jarne and La 'inez (2006) using both parametric and non-parametric statistics analysis observe that the image of listed Spanish firms differs significantly when IFRS rather than SAS are applied in the preparation of financial information for the first half of 2004.

Moore (2012) concludes that adoption of IFRS does not appear to cause significant changes in the central tendency of some of the selected financial ratios and in the dispersion of all the ratios of Canadian public mining companies. However, IFRS adoption does appear to cause significant changes in the central tendency of the quick ratio, return on assets, and comprehensive return on assets. These results represent a departure from some of the results of the Canada study which found no significant differences in the central tendency of any of the ratios examined by their study such as current ratio, quick ratio, debt ratio, equity ratio, return on assets, and comprehensive return on assets. Kieso, et. al. (2011) specifically note that the return on assets and comprehensive return on assets should be closely examined because these ratios appeared to decrease entirely following IFRS adoption, possibly due to impairment losses that are reported under IFRS but not under Canadian GAAP.

Ibiamke and Ateboh-Briggs (2014) investigates the financial ratios effect of International Financial Reporting Standards (IFRS) Adoption in Nigeria. The study employs an innovative design known as "same firm-year" research design to examine how IFRS adoption changes key financial ratios of Nigerian listed firms. A sample of 60 companies was employed using a filter scale. Gray Index was used to find the impact of IFRS adoption on financial ratios while Paired sample t test and Levene's F were used to test the statistical significance of the differences in mean and variances between ratios under IFRS and Nigerian Generally Accepted Accounting Principles (NGAAP) respectively. The main finding from the study is that IFRS adoption has caused a negative impact on the financial ratios of Nigerian listed firms but the impact was not statistically significant.

KPMG, (2011) studies the impact of IFRS on banking sector by explaining how the conversion management needs to take a holistic view of the different aspects of the accounting under IFRS and its impact across the entity. Top Ten IFRS banking accounting and reporting issues **were identified and** this include Financial instruments – classification, measurement, recognition and derecognition, presentation of financial statements and disclosures of financial instruments, Leases, Insurance contracts, Post-employment benefits, IFRS 1 – first-time adoption, Financial instruments – impairment, Hedge accounting, Consolidation of special purpose entities (SPEs) and Definition of debt and equity.

Despite sprawling nature of studies conducted on adoption of IFRS, most of the studies were more of conceptual and theoretical, hence this study is one of the few studies that employ empirical analytical method via the adoption of various statistical analyses and linking these analyses to theory. In addition, it was also observed that most of these studies were undertaking in the developed country. This perhaps can be attributed to the fact that most of these developed countries adopted IFRS earlier than the developing economy like Nigeria. As this study is undertaking in developing economy, the findings will add to the existing literatures in this area of study. Notwithstanding few literatures in this area of discourse, most of the studies were on non-banking sector. This is more conspicuous in developing country generally and Nigeria in particular as studies in the banking sector seems close to non-existence. Hence, the study hopes to add to existing few literatures in this area of academic discourse.

3. RESEARCH METHODOLOGY

A cross-sectional research technique is adopted in gathering the data used. This is because the data gathered are drawn from the samples which are drawn at a particular point in time, common to all the elements of the sample. The study examines the effects of IFRS adoption on financial ratios of Nigerian

banks for the transition reporting period 2011. Therefore, all the 21 commercial banks form the population of this study. Nigeria Banks were selected due to their contribution to economic equilibrium of Nigeria economy, adequate regulation of operations and high-quality of their financial reporting system (Oladejo and Oladipupo, 2011).

The study adopts a purposive sampling technique by selecting all commercial banks that produced comparative financial statement for transition period. This Sampling technique is necessary since some banks did not report their financial affairs in a manner that could enhance data extraction for research purpose. Out of the entire population of 21 commercial banks existing as at 31st December 2013, only 14 banks produced comparative financial statement for 2011 year of transition representing 67% of the targeted population. Therefore, seven (7) banks were excluded from the sample. The resulting sample of 14 banks were used in this analysis consisting of 14 audited financial statements of Nigerian Banks prepared under both Nigerian GAAP and IFRS for the same period making an overall assessment of 28 annual reports for this transition period (See appendix I).

IFRS is mandatory for Nigerian listed companies for financial periods beginning on or after January 1, 2012. Due to the transitional requirements of IFRS 1, the financial statements for at least one year prior to the shift are available under two sets of accounting standards: local GAAP and IFRS. In that case, the full financial statements are available under both Nigerian GAAP and IFRS, including the opening statement of financial position. This allows for comparison and identification of the differences between them (Callao, et al., 2005). Secondary data sources were mainly used for this study which was obtained through three key processes. First, a comprehensive database of financial statement information prepared under Nigerian accounting standards (SAS) and IFRS from the published transition reports was created. Second, using the database created and Following Lantto and Sahlström (2009), the study calculates the key financial ratios on the basis of SAS and IFRS financial statements for the same reporting period (See table 1). Third, the study examines whether the financial ratios computed from the SAS-based and IFRS-based financial statements are significantly difference.

Table 1: Operational Definition of Variables: Financial Ratios

S/N	Main Ratios	Specific Ratios	Ratios Formula
1	Profitability	Return on Asset (ROA) Return on Equity (ROE) Interest Coverage Net Interest margin	= PAT / Total assets = PAT / Equity = Operating Income/Interest expense = Interest & Similar Income/Total Asset
2	Liquidity	Current ratio Loans and Advances to Total Asset Loans and advances to Total deposits	= Current assets/Current liabilities = Loans and Advances/Total Assets = Loan and advances/Total deposits
3	Leverage	Debt ratio Equity ratio Total Deposit to Equity	= Total liabilities/Total assets =Shareholders' equity/Total assets = Total Deposit/Shareholders' Fund
4	Investment	Earnings Per Share (EPS) Dividend Cover Dividend Payout	= PAT/No. of Ordinary Shares = EPS/DPS = DPS/EPS

Descriptive and inferential statistical techniques were used to analyze the data collected. The descriptive statistics such as mean and standard deviation were used to provide a snap shot of the variables used in the study. While kurtosis, skewness, Kolmogorov-Smirnov and the Shapiro-Wilk tests were used to determine the normality of the data. In addition, dependent sample t test, a parametric test was used to test for any data that does not violate the assumptions of parametric test while an equivalent

non-parametric test, Wilcoxon Signed-rank test, was used to test data that violate the normal distribution assumptions.

4. DATA PRESENTATION, ANALYSIS AND INTERPRETATION

Table 2 present the descriptive statistic with respect to the mean, standard deviation, skewness and kurtosis of the data.

Table 2: Descriptive Statistics of the Data

Financial Ratios	N	Mean Statistic		Std. Deviation Statistic		Skewness Statistic			Kurtosis Statistic		
		NGAAP	IFRS	NGAAP	IFRS	NGAAP	IFRS	Std. Error	NGAAP	IFRS	Std. Error
Profitability Ratio	14	0.64	0.60	0.78	0.71	0.49	0.31	0.59	-0.13	-0.16	1.15
Return on Asset	14	0.29	0.32	0.98	0.95	1.12	1.04	0.59	2.09	1.82	1.15
Return on Equity	14	-0.11	-0.07	0.36	0.25	-2.48	-1.52	0.59	6.78	1.93	1.15
Interest Coverage ratio	14	2.31	2.06	2.55	2.41	0.37	0.19	0.59	-0.25	-0.04	1.15
Net Interest Margin	14	0.08	0.08	0.02	0.02	0.86	0.24	0.59	1.21	-0.92	1.15
Liquidity Ratio	14	0.61	0.59	0.16	0.16	-0.60	-0.58	0.59	-0.78	-1.04	1.15
Current Ratio	14	0.82	0.77	0.15	0.13	-0.79	-0.28	0.59	0.05	-0.16	1.15
Loans and Advances to Total Deposit	14	0.60	0.58	0.24	0.22	-0.11	-0.38	0.59	-1.15	-1.15	1.15
Loans and Advances to Total Asset	14	0.42	0.42	0.16	0.16	-0.42	-0.47	0.59	-1.05	-1.06	1.15
Capital Structure Ratio	14	2.52	2.58	1.62	1.75	2.74	2.79	0.59	8.62	8.98	1.15
Debt Ratio	14	0.87	0.87	0.05	0.05	0.32	0.19	0.59	-0.16	-0.43	1.15
Equity Ratio	14	0.13	0.13	0.05	0.05	-0.35	-0.19	0.59	-0.06	-0.43	1.15
Total Deposit to Equity	14	6.57	6.75	4.85	5.25	2.74	2.79	0.59	8.62	8.98	1.15
Investment Ratio	14	14.06	16.82	59.84	61.71	3.68	3.56	0.59	13.68	13.03	1.15
Earnings Per Share	14	4.94	5.68	45.46	47.33	2.88	2.69	0.59	10.27	9.85	1.15
Dividend Payout Ratio	14	0.60	1.01	0.68	1.59	0.40	1.47	0.59	-1.89	1.04	1.15
Dividend Cover	14	36.64	43.77	136.25	140.62	3.74	3.60	0.59	13.99	13.18	1.15

Source: Authors' Computation

The mean results of the financial ratios under the two standards as presented in table 2 are almost the same for all the ratios except for some few cases such as Return on Equity (ROE) Average Capital structure, Total Deposit to Equity, Average Investment ratio, Earnings per share (EPS) and Dividend Cover (DC) where the ratios were slightly different. The standard deviation statistic which measures the level of dispersion of mean distribution also confirmed that the mean distributions of the ratio computed such as Net Income Margin, Average Liquidity ratio, Loan and Advances to Total Asset and Debt Ratio are not differed under the two standards. The preliminary analysis also provides some information concerning the distribution of scores on continuous variables (skewness and kurtosis). The skewness and kurtosis statistics as shown in table 2 indicates that majority of the data are normally distributed as their values are within the cut of point of -3 and 3 (Pallant, 2007). Specifically, each ratio was also tested using the Kolmogorov-Smirnov and the Shapiro-Wilk tests in order to determine if the sample came from a normally distributed population. This became expedient in order to determine the appropriate statistical tests to be used. The results of the tests were presented in table 3.

Table 3: Result of Data Distribution Normality Test

Overall Financial Ratios	df	Kolmogorov-Smirnov		Shapiro-Wilk		Statistical Tool Employed	
		Statistic	Sig.	Statistic	Sig.	Independent Sample t test	Mann-Whitney U test
Profitability Ratio	28	0.092	0.200*	0.967	0.497	√	√
Return on Asset	28	0.199	0.006	0.913	0.023	X	√
Return on Equity	28	0.227	0.001	0.743	0.000	X	√
Interest Coverage ratio	28	0.137	0.192	0.959	0.328	√	√
Net Interest Margin	28	0.139	0.174	0.946	0.156	√	√
Liquidity Ratio	28	0.201	0.005	0.888	0.006	X	√
Current Ratio	28	0.129	0.200*	0.961	0.361	√	√
Loans and Advances to Total Deposit	28	0.184	0.017	0.929	0.059	X	√
Loans and Advances to Total Asset	28	0.185	0.015	0.891	0.007	X	√
Capital Structure Ratio	28	0.250	0.000	0.667	0.000	X	√
Debt Ratio	28	0.169	0.040	0.921	0.037	X	√
Equity Ratio	28	0.166	0.046	0.924	0.043	X	√
Total Deposit to Equity	28	0.250	0.000	0.667	0.000	X	√
Investment Ratio	28	0.483	0.000	0.388	0.000	X	√
Earnings Per Share	28	0.427	0.000	0.540	0.000	X	√
Dividend Payout Ratio	28	0.279	0.000	0.707	0.000	X	√
Dividend Cover	28	0.495	0.000	0.328	0.000	X	√

√: Statistical test conducted x: Statistical test not conducted

Source: Authors' Computation.

Table 3 presents the results of the Kolmogorov-Smirnov Test and Shapiro-Wilk normality test of distribution for twenty eight 28 financial ratios computed under both the Nigerian GAAP and IFRS financial statements. Normality assumption is assumed if the significant level is greater than 5% level of significant for all the categories of the ratio. Consequently, dependent sample t test was used to test financial ratios that do not violate the assumption of parametric test. While Wilcoxon signed-rank test was used to test all the financial ratios regardless of the parametric test assumptions in order to confirm the result of the analysis under the two statistical tools (See table 3).

The results of the analysis for each of the statistical tool used are presented separately in table 4 and table.5 respectively in order to provide answers to the research question and to test the research hypothesis.

Table 4: Result of Dependent Sample t-test

	STANDARDS	N	Mean	Std. Deviation	Std. Error Mean	Sig.
Profitability Ratio	NGAAP	14	0.6382	0.77750	0.20779	0.659
	IFRS	14	0.5980	0.70865	0.18939	
Interest Coverage Ratio	NGAAP	14	2.3050	2.54615	0.68049	0.418
	IFRS	14	2.0636	2.40970	0.64402	
Net Income Margin Ratio	NGAAP	14	0.0771	0.01816	0.00485	0.816
	IFRS	14	0.0757	0.01869	0.00500	
Current Ratio	NGAAP	14	0.8171	0.15294	0.04088	0.036
	IFRS	14	0.7671	0.13252	0.03542	

Source: Author Computation.

Table 4 shows the result of the dependent sample t test for the financial ratios that fulfilled the parametric test assumptions. Overall, the result shows that financial ratios computed under Nigerian GAAP and IFRS are slightly different in terms of the mean and the standard deviation of the ratios.

Table 5: Result of Wilcoxon signed-rank test

Financial Ratios	Standards	N	Mean Rank	Sum of Ranks	Z Statistic	Sig.
Profitability Ratios	NGAAP	14	8.17	49.00	-0.224	0.826
	IFRS	14	7.00	56.00		
Return on Asset	NGAAP	14	8.20	41.00	-0.722	0.470
	IFRS	14	7.11	64.00		
Return on Equity	NGAAP	14	7.90	39.50	-0.823	0.410
	IFRS	14	7.28	65.50		
Net Income Margin Ratio	NGAAP	14	4.00	12.00	-0.344	0.731
	IFRS	14	4.00	16.00		
Interest Coverage Ratio	NGAAP	14	8.00	64.00	-0.722	0.470
	IFRS	14	6.83	41.00		
Liquidity Ratio	NGAAP	14	8.45	84.50	-2.010	0.044
	IFRS	14	5.12	20.50		
Current Ratio	NGAAP	14	9.33	84.00	-1.983	0.047
	IFRS	14	4.20	21.00		
Loans and Advances to Total Deposit	NGAAP	14	6.60	33.00	0.000	1.000
	IFRS	14	5.50	33.00		
Loans and Advances to Total Asset	NGAAP	14	6.00	12.00	-1.268	0.205
	IFRS	14	4.71	33.00		
Capital Structure	NGAAP	14	6.33	38.00	-0.910	0.363
	IFRS	14	8.38	67.00		
Debt Ratio	NGAAP	14	3.00	6.00	-0.447	0.655
	IFRS	14	3.00	9.00		
Equity Ratio	NGAAP	14	2.50	7.50	0.000	1.000
	IFRS	14	2.75	7.50		
Customer Deposit To Equity	NGAAP	14	6.33	38.00	-0.910	0.363
	IFRS	14	8.38	67.00		
Investment Ratio	NGAAP	14	5.25	21.00	-1.977	0.048
	IFRS	14	8.40	84.00		
EPS	NGAAP	14	6.38	51.00	-0.094	0.925
	IFRS	14	9.00	54.00		
Dividend Payout	NGAAP	14	3.00	9.00	-0.845	0.398
	IFRS	14	4.75	19.00		
Dividend Cover	NGAAP	14	3.50	14.00	-1.007	0.314
	IFRS	14	6.20	31.00		

Source: Authors' Computation.

Table 5 shows the result of the Wilcoxon signed-rank test. Analysis of the data reveals generally that financial ratios computed under Nigerian GAAP and IFRS have slight differences in the mean ranks of the ratios while few financial ratios such as Net Income Margin Ratio and Debt ratio have the same mean ranking of 4.00 and 3.00 respectively. Having presented the mean distribution of the ratios, the test of the hypotheses and the implications of the findings is thus examined.

5. TEST OF HYPOTHESIS AND INTERPRETATION OF FINDINGS

The results as presented in Tables 4 and 5 respectively provide some practical interpretations and implications in the banking sector which is enumerated under each hypothesis.

5.1 Hypothesis One

H_{01} . The profitability performance shown by financial ratios prepared from IFRS financial statement does not significantly differ from those prepared from Nigeria GAAP.

Table 4 shows the result of dependent sample t test conducted to compare the financial ratios computed under NGAAP and IFRS for average Profitability ratio, Interest Coverage and Net Interest margin. The result shows that there was no significant difference in the financial ratios under NGAAP; Interest Coverage, Mean =0.2.31 and SD=2.54 and IFRS Mean =2.06, and SD = 02.41 with p value = 0.418. Also, the Net Interest margin under NGAAP has Mean =0.077 and SD=0.018 and IFRS Mean=0.075 and SD = 0.018 with p value = 0.816. This result is also in line with the result of Wilcoxon signed-rank test conducted for all the ratios (See Table 5) as well the average profitability ratios. Generally, the mean rank average score of the profitability ratios for NGAAP is higher than that of IFRS with a difference of 1.17 as shown in table 4 but this was not statistically significant. Consequently, the calculated p-values is more than the critical p of 0.05, implying that profitability ratios does not differ significantly after IFRS adoption. The findings implies that profitability performance ratios computed under IFRS financial statement do not significantly difference from those under the NGAAP. Therefore, the null hypothesis is accepted.

The finding is in line with the conclusion of Ibiameke and Ateboh-Briggs (2014) who concludes that IFRS adoption has caused a negative impact on the financial ratios of Nigerian listed firms but the impact was not statistically significant. Moore (2012) submits that adoption of IFRS does not appear to cause significant changes to the central tendency of some of the selected financial ratios and in the dispersion of all the ratios of Canadian public mining companies. However, the findings is contrary to the believe of Kieso, et. al. (2011) who specifically noted that the return on assets and equity appeared to decrease entirely following IFRS adoption, possibly due to impairment losses that are reported under IFRS but not local GAAP. The issue of impairment may not significantly affect IFRS statement in Nigeria as this issue of impairment has been recognized in the previous Nigerian GAAP.

5.2 Hypothesis Two

H_{02} . There is no significant difference between the liquidity measurement parameter computed under the two standards.

For the liquidity ratios, the dependent sample t-test yielded a p-values for current ratio of 0.036 as shown in table 4 while the Wilcoxon signed-rank test yield the following p-value of 0.047, 1.000, 0.205 and 0.044 for Current ratio, loan and advances to total deposit, loan and advances to total asset and average liquidity ratio respectively. Also, the result as presented in table 5 indicates that mean rank of the average liquidity ratios for NGAAP is higher than that of IFRS by 3.33. The differences in the current ratio and the average liquidity ratio are statistically significant as the calculated p value is less than the critical value (0.05). However, the difference in the mean rank and sum of the mean rank for Loans and Advances to Total Deposit and Loans and Advances to Total Asset are not statistically significant. This implies that significant difference shows by average liquidity ratio is factor of current ratio. The finding implies that the difference in the liquidity ratio of NGAAP is significantly different from IFRS liquidity ratio. This led to the conclusion that IFRS adoption significantly affected the liquidity ratios of Nigerian Banks. Therefore, the study rejects the null hypothesis which states that the means differences between liquidity ratios under IFRS and NGAAP are not significantly different.

This findings was supported by Callao, Jarne and La'inez (2007) who attest to the fact that the effect of IFRS is most significant as a result of reclassification of accounts, change in the rules of valuation of debts and scope of consolidation for trade receivables, cash and cash equivalents, equity, long-term and total liabilities. Lantto and Sahlstrom (2009) stress that the changing experience in the liquidity ratios may be as result of additional current liabilities from treatment of lease transactions, Employee Benefit Obligation (IAS 19) and effect of financial instruments (IAS 32 AND 39). Besides, Moore (2012) asserts that IFRS adoption does appear to cause significant changes in the central tendency of the quick ratio, return on assets and comprehensive return on assets.

5.3 Hypothesis Three

H03. There is no significant difference between the capital structures measures of the two standards.

For the third hypothesis, only Wilcoxon signed-ranked test was conducted to compare the differences in the financial ratios because the variables violate the assumption of parametric test. The results of the test are: Debt ratio ($p=0.655$), Equity ratio ($p=1.000$), total deposit to equity ($p=0.363$) and the average capital structure ratio of $p=0.363$. Since the P-values exceed the critical value (0.05) we accept the null hypothesis. The conclusion is that, IFRS adoption does not significantly affect leverage ratios of Nigerian banking sector. The result shows that there is no significant difference in the distribution of the Capital Structure ratios computed under the Nigerian GAAP and IFRS. This result implies that the null hypothesis would not be rejected. Thus, the study accepts that there is no significant difference among the financial ratios for measuring capital structure computed under Nigerian GAAP and under IFRS. The final test relates to market/valuation ratios;

The result is in line with the findings of Ibiameke and Ateboh-Briggs (2014) who found that leverage ratios have increased with the transition from NGAAP to IFRS by Nigerian listed firms. However, the increase is also not statistically significant. This finding is also in line with conclusion of Lantto and Sahlstrom (2009) who discover that liquidity ratio decrease under IFRS while the leverage ratios increase but this increase is as result of liabilities arising from Employee Benefit Obligation (IAS 19) and effect of financial instruments (IAS 32 AND 39). In the case of Nigeria, this may not have any significant effect as most of the organisation just implementing the standards and the effect may perhaps not be felt at the early stage of adoption.

5.4 Hypothesis Four

H₀₄. The investment returns measurement parameter prepared from IFRS Financial statement does not differ significantly ratios with investment returns measurement parameter prepared from Nigeria GAAP.

Based on Table 5, preliminary analysis of the data indicates that the mean rank of average investment ratios computed under Nigerian GAAP have a lower mean rank from those computed under IFRS which differs from the previous result for other ratios. Nigerian GAAP shows lower mean rank (5.25) to IFRS (8.40) and sum of rank of (21.00) to (84.00) with p -value of 0.048. However, the result of Wilcoxon signed-rank test shows that the individual ratios that make up the average investment ratio have the following p -value of 0.925, 0.398 and 0.314 for Earnings per share, Dividend Payout ratio and Dividend Cover respectively. This result shows that the differences in each specific investment ratio is not statistically significant but the average investment ratio shows that there is significant difference in the distribution of the average investment ratio computed under the Nigerian GAAP and IFRS at 5% level of significant. This result implies that the null hypothesis would be rejected.

The result implies that the financial ratios prepared under IFRS financial statement significantly enhance better investment measurement parameter from those prepared under Nigerian GAAP. This conclusion is in line with the result Callao, Jarne and La´mez (2007), Lantto and Sahlstrom (2009) and Moore (2012) who states that IFRS adoption does appear to cause significant changes in the financial measurement parameters.

Theoretically, the adoption of IFRS posit positive changes to the financial reports and this was supported by Roger's diffusion of innovation theory for the accountancy profession to be in line with the pace of development. The relevance of this theory remains that the IFRS has communicated the innovation of accounting reform thereby necessitating a comparison with the previous methods to determine the extent of difference that may have arisen and also enhance the ability to gain accurate evaluation of IFRS adoption and identify its strength with the subsisting GAAP.

In conclusion, the results imply that the two (2) null hypotheses for profitability ratio and capital structure ratio would not be rejected while two null hypotheses for liquidity ratio and investment ratio are rejected. Thus we accept that there is no significant difference in the profitability and capital structure ratio. However, there exists significant differences in the liquidity and investment ratio computed from Nigerian GAAP financial statement and the IFRS financial statement in the banking sector.

6. CONCLUDING REMARK

Based on the overall results of this study, it can be concluded that adoption of IFRS appear to cause significant changes to liquidity and investment performance measurement parameters of Nigerian Banking sector. This was accounted for based on reclassification of accounts, change in the rules of valuation of debts and scope of consolidation for trade receivables, cash and cash equivalents, equity, long-term and total liabilities and additional current liabilities from treatment of lease transactions. However, the adoption of IFRS does not appear to have significant changes on profitability and capital structure performance measurement parameters. These results represent a departure from some of the findings of the Canada study, Finland study, Spanish study, U.K., etc. The reasons for different conclusions may not be farfetched. The first explanation is the characteristics of the companies in the study's sample. The study focuses mainly on Nigerian Banking sector which is regulated by various agencies such as NSE, CBN, NDIC, CAC, FIRS, etc that closely monitors the activities of the banking sector and expects periodic high quality financial reports.

The second reason might perhaps be attributed to the fact that all Nigerian GAAPs were independently developed by the respective local Accounting Standards Setting bodies through adaptation of IASs (now IFRS). This is evident in standards issued by the defunct Nigeria Accounting Standard Board (NASB) which had a section detailing the IAS equivalents of the standards.

The third reason emanates from the fact that the Central Bank of Nigeria (CBN), in a bid to integrate the banking system into the global best practices in financial reporting and disclosure, early commenced partial adoption of the International Financial Reporting Standards (IFRS) in the Nigerian banking system since 2010. Consequently, most of the banks have started adopting and complying with IFRS internally before the mandatory reporting periods.

In conclusion, the result adds to the body of literature by showing some evidences from the comparison of Nigerian GAAP and IFRS based financial ratios of Nigerian banks.

7. RECOMMENDATIONS

In view of the above results, this study recommends that financial analysts must adopt a cautious approach when examining financial ratios during transition to IFRS. Users of financial statements need to distinguish reported performance changes caused by the transition to IFRS from those caused by changes in the business. One possible solution may be to recalculate previous ratios using IFRS retroactive information presented in the year of the transition. However, this may be a costly exercise which is still subject to limitations. Analysts need to be aware of the main features of IFRS that differ from Nigerian GAAP.

In addition, users of financial statement in banking sector need not to create panic in making use of financial reports for their investment and economic decision as the adoption of the IFRS has no impact of the profitability and investment performance measurement parameters of Nigerian banks. Specifically, the adoption of IFRS does not have any influence on the profitability performance of the Nigerian bank. Also, present and potential investors can continue to maintain their investment status as the adoption has no impact on the equity structure as well as the returns from their investments.

Notwithstanding the notable differences at the level of each specific ratio, the study recommends that financial analysts should pay particular attention to some of these situations where financial ratios under IFRS and NGAAP lead to uneven results. Otherwise, the comparability may be impaired and the trend analysis may be misleading.

Finally, future researches are encourage to be conducted on other sectors of the economy in order to confirm whether the adoption of IFRS will also give the same conclusion with this study.

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ARBITRATION IN THE PETROLEUM INDUSTRY IN UGANDA: A GENERIC OVERVIEW OF THE LEGAL FRAMEWORK

By
Tajudeen Sanni & Joel Sito

ABSTRACT

This paper explores the legal framework of Alternative Dispute Resolution (ADR) mechanisms in Uganda's petroleum industry. With a lot of interest from foreign investors in the Uganda oil sector, the big question is whether there is a legal framework in place that will expedite dispute resolution in case there is a conflict arising from the various contracts that have been or will be agreed upon by the various players in the industry. In particular we will concentrate on arbitration as the preferred choice of Alternative Dispute Resolution (ADR) in the Petroleum industry. We will also hint on other types of mechanisms that are used in the industry at largewith particular reference to the Laws of Uganda .

1. INTRODUCTION

In the petroleum industry world over there are bound to be major contractual conflicts among the various actors engaged in the industry. As contracts are signed ,the need for settlement of disputes outside of court can not be overemphasised. A kind of 'shortcut' or rather more efficient way of resolving disputes due to the need for expediency, low costs involved, maintaining business relations among other things is required. Thus turning to Alternative Dispute Resolutions (ADR) as the most suitable form of achieving this can not but be expected.

For foreign investors contemplating or initiating investments and contracts in Uganda, a major relates to how potential legal disputes are to be solved. This concern exists regardless of whether the contract is to be signed with a private or governmental entity in Uganda. It is a main concern for every foreign investor as they seek to protect their investments and reduce costs in expensive litigation.

The term Arbitration is defined as a determination of a dispute by one or more independent third parties (the arbitrators) rather than by a court. Arbitrators are appointed by the parties in accordance with the terms of the arbitration agreement or in default of court.¹

Arbitration or more specifically International Commercial Arbitration has become the norm and rapidly gained popularity as a form of settling disputes in the petroleum industry. An arbitration is regarded as international by UNCITRAL Model Law² if;

1. the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States; or
2. one of the following places is situated outside the State in which the parties have their places of business:
 - i. the place of arbitration if determined in, or pursuant to, the arbitration agreement;
 - ii. any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or
3. the parties have expressly agreed that the subject matter of the rbitration agreement relates to more than one country.

2. INTERNATIONAL COMMERCIAL ARBITRATION IN THE PETROLEUM INDUSTRY

A significant feature of international arbitration is the the fact that a number of legal systems may be relevant in the disputes.³ In such a scenario the issues to be decided are-

¹ Jonathan Law, Elizabeth A Martin, *Oxford Dictionary of Law* 7th Ed.

² Article 1(3) 1985 amendments adopted in 2006

³ Jumoke Akinjide-Balogun, Oil and Gas Arbitration. Seminar On "International Commercial Arbitration in the African Sub-Region: Meeting the User's Need" http://www.akinjideandco.com/oil_gas.html accessed 28 January 2015.

- i. The law applicable to determine the capacity to enter into the arbitration agreement-in case of a corporate entity is usually the law of the place of incorporation¹
- ii. The law applicable to the arbitration agreement itself-the concept of the ‘autonomy’ or ‘severability’ of the arbitration agreement means that it is a separate agreement and survives termination of the contract in which it is contained. The law applicable to the agreement can therefore be different from that applicable to the principal contract.²
- iii. The law applicable to the arbitration proceedings (lex arbitri)-usually the law of the country in which the arbitration is taking place.³
- iv. The law applicable to the dispute itself (lex causae)-the parties often choose the applicable law, failing which the relevant international Arbitration Rules of the conflict of laws rules of the seats arbitration should resolve the point.⁴
- v. The law applicable to the enforcement of the award-the law of the country in which enforcement is sought.⁵

In the petroleum industry inserting an arbitration clause in almost every contract that is signed has been emphasized so as to speed up resolution in case of a dispute arising. An arbitration clause imbedded in the principal contract is regarded as separate a contract from the principal agreement.

If for any reason the parties have not negotiated an arbitration clause into their contract before its execution, they may later include one via addendum while their commercial relationship exists. It is recommendable to stipulate an arbitration clause before the contract is executed, as there is more ability to negotiate at this stage than when a dispute arises.⁶

When an arbitration is held “*in law*”, the arbitrators’ decision must be based on the law, universal principles of jurisprudence and legal doctrine. Arbitrators in these proceedings are normally attorneys. If the parties wish to have their arbitration held *in law*, they must so specify in their contract’s arbitration clause.⁷

If an arbitration is held “*in equity*”, the arbitrators must resolve controversies in an impartial manner using prudent criterion. As such, arbitrators in equity proceedings do not have to be attorneys and are often experts in the field in which the controversy lays. If the arbitration clause does not specify whether a future proceeding will be held in law or equity, the case will be heard *in equity*.⁸ Arbitrators in equity are also referred to as “commercial men”.

3. ARBITRATION AGREEMENTS IN THE PETROLEUM INDUSTRY

The agreements used in the petroleum industry are imbedded with arbitration clauses that are called into force when disputes arise. These contractual agreements could be between private oil companies or oil companies and the respective states.

Typical examples of agreements between governments and oil companies include a grant of an Oil Exploration Licence, Oil Prospecting Licence or Oil Mining Lease by the State to Licensee/Lessee and the grant of fiscal incentives by the Government in the form of a Memorandum of Understanding or Side Letter.⁹ Traditionally governments donot like entering into Arbitration agreements assuming the position that any attempt to diminish its powers in dealing with interests conferred in the oil industry amounts to a derogation of sovereignty.¹⁰ Further it may nevertheless be prudent that were the other party to the arbitration agreement is a state to ask for waiver of both immunity to the jurisdiction of Courts of the place of arbitration and its immunity from execution in respect of any award made against it.¹¹

1 *Ibid*

2 *Ibid*

3 *Ibid*

4 *Ibid*

5 *Ibid*

6 Diego Romero, Ecuador: Mediation and Arbitration in the Petroleum Industry. www.mondaq.com accessed 22nd January 2015

7 *Ibid*

8 *Ibid*

9 *Ibid* Note 3

10 Jumoke Akinjide-Balogun, *Ibid* Note 3

11 *Ibid* Note 3

3.1 Joint Concession Holder Agreements

There are some Joint Concession Holder agreements made between the Oil companies and the State enterprise/authority designated to handle the oil interests of the respective state granting exclusive authorization to the oil company in respect of a certain area known as the licence area. Examples of these types of agreements are Joint Venture Agreements, Joint Operating Agreements, Production Sharing Agreements and Farm out Agreements. In all these agreements Arbitration clauses are embedded in them although generally the law that's applicable in these agreements is that of the State enterprise to reflect a stronger bargaining power of the State.

The language and relationship used in Joint Operating Agreements (JOA) has been described as being a kin to that of a marriage where the parties agree to;

“...to have and to hold in accordance with the terms of the JOA until termination, withdrawal, assignment or default do us part.”¹²

Production Sharing Agreements are agreements between a foreign oil company known as ‘the Contractor’ and a designated State Enterprise known as ‘the State Party’ authorizing the contractor to carry out petroleum explorations and exploitation in a designated area in accordance with the rules of the agreement at its own expense whilst the state party owns the resources. In the event of any dispute arising the parties are likely to opt for arbitration.

A Farm out Agreement is “an agreement whereby a third party agrees to acquire from one or more of the existing licensees an interest in a production licence and in the operating agreement relating to it, for a consideration which in oil industry practice will normally consist of the carrying out of a specified work obligation known as the earning obligation, used in the drilling of one or more wells.”¹³ In simpler terms, they refer to deals where a company not present a licensee on a particular licenced area can acquire an interest from the existing licensees.¹⁴

The most likely issues which may likely lead to disputes in this type of arrangement include (i) cash call requirements, (ii) supplies made to the Joint Venture Operations (iii) control of the Operator and (iv) approvals by the Joint Operating Committee.¹⁵

3.2 Contracts between Oil and Gas Companies

In the private sector the common types of agreements that used between Oil and Gas companies are Unitisation and contracts granting Third Party Access to oil fields facilities.¹⁶ Unitization has been described in many different ways by many different authors but they all say the same thing. It is cooperation between two or more parties or states engaged in the petroleum industry forming an alliance to efficiently and conservatively exploit and develop a particular oil field for their mutual benefit. This arrangement in the petroleum industry makes both economic and environmental sense.

However in the event that a party to this arrangement tries to renege on their part of the deal there is a pre-emptive measure that is included in the agreement that will cater for any eventualities like disputes. In any case these agreement always provide for the appointment of an expert for binding determination in the event of a dispute during equity determination.

This is known as the ‘Guided Owners’ process in which an expert is appointed from the beginning of the process, before any dispute arises. The expert is invited to all discussions of the unit owners and as such will be aware of all the issues and positions of the parties as the process evolves.¹⁷

3.3 Oil and Gas Operators and Service Contractors

This sector in the Oil and Gas industry is one the comprises a whole range of companies providing a wide range of services to the Oil and Gas companies eg Storage and offtake facilities, drilling rigs et.c. In this sector the use of arbitration clauses is very vital with the Operators often providing the standard form contracts that contain them.

12 Sandy Shaw, *Joint Operating Agreements, Upstream oil and Gas Agreements* (1996), Sweet & Maxwell.

13 Daintith & Willoughby, *United Kingdom Oil and Gas Law* (2nd ED)

14 United Kingdom Department of Energy Press Release, 27 Nov. 1990 titled “New Statement on Guideline for Oil and Gas Farm –in Deals “

15 *Ibid* Note 3

16 Akinjide Note 3

17 Warwick English, *Unitisation Agreements, Upstream Oil and Gas Agreements* (1996) Published by Sweet & Maxwell.

4. OTHER ALTERNATIVE DISPUTE RESOLUTION MECHANISM TO CONSIDER IN THE OIL AND GAS INDUSTRY

These mechanisms are divided into two, the binding and the non binding mechanisms. The binding mechanisms are (i) binding Expert Determination; and (ii) Final Offer Arbitration while the non binding mechanisms are (i) mediation (ii) conciliation (iii) mini-trial and (iv) non-bind Expert finding.

4.1 Binding Mechanisms

Binding Expert Determination: The parties agree to refer their disputes to an expert whose decision is final and binding on the parties. Like arbitration, expert determination is rooted in contract. It is particularly useful in the oil industry because of the enormous sums involved, the technical nature of many disputes and the need to preserve long term relationships.¹

Final Offer Arbitration: This involves each party submitting their final offer to an arbitrator who must choose one of the two alternatives.²

4.2 Non binding Mechanisms

Mediation: This involves a neutral person called a mediator, who assists the parties in negotiating an agreement.³

Conciliation: This is a process in which a third party called a conciliator restores damaged relationships between disputing parties by bring them together, clarifying perceptions, and pointing out misconceptions

Mini-Trial: This technique provides for a summary presentation of evidence by an attorney or full informed representative for each side to decision makers usually a senior executive from each side. After receiving the evidence the decision makers privately discuss the case.

Non binding Expert finding:- The parties engage an expert to make an appraisal of the dispute, especially where the issues are highly technical, who suggest an outcome which is non-binding.⁴

5. THE LEGAL FRAMEWORK OF ARBITRATION IN UGANDA

Examining arbitration in Uganda requires one to carefully study the laws that govern this area especially in the specialist sector of the Oil and Gas industry. The Constitution of Uganda is the Supreme law of the land and therefore the first reference needed to understand the position of arbitration in Uganda.

Article 126(2) of the Constitution states that, in adjudicating cases of both a civil and criminal nature, the courts shall, subject to the law, apply the following principles;⁵

- (a) ...;
- (b) justice shall not be delayed;
- (c) ...
- (d) reconciliation between parties shall be promoted; and
- (e) substantive justice shall be administered without undue regard to technicalities.

The above article in the Constitution puts emphasis on speedy resolution of conflict, reconciliation of the parties involved and ensuring that justice is achieved without dwelling too much on the how and the small details or rules especially if this may instead end up being a hindrance to achieving the ultimate goal.

1 Akinjide Note 3

2 *Ibid*

3 Alternative Dispute Resolution, A Resources Guide, published by the United States Office of Personnel Management and Equal Employment Opportunity Commission, pg 1-1 to 1-6

4 *Ibid* Note 3

5 1995 (Amended) Laws of Uganda. This section is explained in the case of Stephen Mabosi Vs URA

In essence administering of justice does not necessary mean litigation. It can be arbitration or mediation or any other form of alternative dispute resolution as long as justice is served. This article gives a basis for the use of arbitration as a way of solving disputes and also reconciling parties to the dispute especially in the petroleum industry.

The Arbitration and Conciliation Act⁶ is the law that governs arbitration in Uganda and it defines arbitration as;

“any arbitration whether or not administered by a domestic or international institution where there is an arbitration agreement;”

An arbitration agreement is further defined in the Act as;

“an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not;”

The Arbitration and Conciliation Act was adapted from the UNCITRA Model Law that governs or sets a standard for international arbitration and has been adopted by many countries. This law governs arbitration in Uganda and therefore in the event of a dispute requiring arbitration in Uganda this law will govern it.

Uganda has indeed made strides in promoting alternative dispute resolution .In line with this,theInvestment Code Act⁷ states;

“Where a dispute arises between a foreign investor and the authority or the Government in respect of a licensed business enterprise, allefforts shall be made to settle the dispute through negotiations for an amicable settlement.”

This section shows there a commitment by the government of Uganda to settle any dispute arising with any foreign investor in an amicable way. It further states:

“A dispute between a foreign investor and the authority or the Government in respect of a licensed business enterprise which is not settled through negotiations may be submitted to arbitration in accordance with the following methods as may be mutually agreed by the parties—

- (a) in accordance with the rules of procedure for arbitration of the International Centre for the Settlement of Investment Disputes;
- (b) within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the investor is a national are parties; or
- (c) in accordance with any other international machinery for the settlement of investment disputes.”⁸

A foreign investor also has a right to choose which ever form of arbitration will best suit them in a bid to settle any dispute that arises. It further states that;

“The licence in respect of an enterprise may specify the particular mode of arbitration to be resorted to in the case of a dispute relating to that enterprise, and that specification shall constitute the consent of the Government, the authority or their respective agents and the investor to submit to that mode and forum of arbitration.”⁹

The fact that the petroleum industry is capital intensive means the government of Uganda has to rely on foreign investors to exploit and develop this resource and therefore they are given all kinds of incentives including the type of arbitration they want. These dispute settlement incentives are meant to encourage investment and give security to foreign investors that their investments will be safe having been assured of a quick resolution to any disputes.

A foreign investor may choose to have the investment dispute settled by a tribunal located in any country other than Uganda under the “International Convention on Settlement of Investment Disputes (ICSID)”¹⁰ they can easily have the awards enforced¹⁰ in Uganda because Uganda recognizes these awards. It also recognizes any arbitral foreign awards given against an individual who is a citizen of Uganda,

6 Cap 4 laws of Uganda

7 Section 28(1) Cap 92 Laws of Uganda

8 Section 28(2) Cap 92 Laws of Uganda

9 Section 28(3) Cap 92 Laws of Uganda

10 Arbitration and Conciliation Act Cap 4 Laws of Uganda

business or the government on Uganda made in pursuance of an arbitration agreement in a State other than Uganda under the “New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.”¹

The Civil Procedure Act² and the Civil Procedure Rules³ also make reference to arbitration. The Civil Procedural Rules actually provides for court sanctioned arbitration and other forms of ADR⁴ and this practice has especially been emphasized in the commercial courts of Uganda and has yielded tremendous success results. The commercial courts in Uganda will respect the wishes of the parties if there is an arbitration agreement in place and will not even entertain a suit in their courts when there is an arbitration agreement in place until there is genuine failure to reach an arbitral award by the arbitrators or a waiver by both parties of this agreement.

The Petroleum Industry in Uganda is still in its infancy stage with early emphasis on arbitration in the agreements signed with the foreign companies exploiting oil in Uganda. In the model agreement,⁵ Article 23 provides for arbitration in the event of a dispute.

In the downstream industry Uganda has downstream Petroleum Act⁶. This Act govern the downstream sector of the petroleum industry in Uganda setting up a The Petroleum Authority of Uganda, National Oil Company, Licensing, State Participation and National Content etc. This Act also provides for dispute resolution and settlement in the event that companies have a fall out. Section 87(2) of the Act provides that;

“Where the dispute cannot be amicably settled through negotiation, the aggrieved party may submit the dispute to the Authority for arbitration.”⁷

Ditto for the upstream Act passed in 2013. Clearly arbitration is provided for and seems to be one of the preferred methods of solving disputes. It is thought that most companies that will be operating in this area will be Ugandan companies due to the emphasis on national content.

According to this Act the companies or individuals that have a dispute in the course of business shall refer their disputes to the authority for determination and negotiation failure of which will call for arbitration. Section 87 (3)⁸ of the bill provides that the law that will govern the arbitral proceedings as the Arbitration and Conciliation Act⁹

Further the leaked PSAs that were signed with Heritage Oil Company contained an arbitration clause to be conducted in accordance with the UNCITRAL Arbitration Rules before a panel of three arbitrators and the arbitration was to be conducted in London.¹⁰ This is exactly what happened when there was a dispute between Uganda and Heritage Oil and Gas Company over the payment of capital gains tax from the sale of their stake in Uganda. The Uganda government won the case. The question though is what exactly is contained in the other agreements as they have been shrouded in mystery and secrecy.

6. CONCLUSION

In conclusion one can definitely agree that Uganda has definitely set in place the laws that will govern arbitration. The Investment Code Act has laid down instances and guidelines for how foreign investors can handle investment disputes with the government through arbitration. The Petroleum industry in Uganda consists mainly of foreign investors because of the large sums of money required and the government of Uganda can't raise such huge sums. Therefore the government relies on foreign investors who can afford to shoulder that burden.

However even with these laws in place the Petroleum industry is a very technical sector and requires a lot of experience and expertise. Uganda is barely out of its diapers in this industry which begs the question that even with all these laws in place are we really ready to take on arbitration in this industry

1 *Ibid*

2 Section 60, Cap 71 Laws of Uganda

3 Order 47 Rule 1, Statutory Instrument No 7 of 2002

4 Order 12 Civil Procedural Rules Statutory Instrument No 7 of 2002

5 Uganda contract, 1999 Model Production Sharing Contract

6 Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Act, 2013

7 *Ibid*

8 *Ibid*

9 Cap 4 Laws of Uganda

10 Article 26 PSA Block 3A Heritage Oil and Gas

if the *lex fori* and the *lex arbitri* was actually set in Uganda. It is no wonder that the foreign investors in this field choose London as the place of arbitration because of the vast experience these centers and arbitrators have in this field.

7. RECOMMENDATIONS

- Though we have the Centre for Arbitration and Dispute Resolution it is ill equipped and underfunded. There are no materials or even trainings that will facilitate the arbitrators with such skills and knowledge to successfully tackle a case in the Petroleum industry with all its challenges. The Centre should get proper support in terms of training and funding to help it grow to the level of its London counterparts.
- The bias that only those who are practicing advocates should be the ones to engage in arbitration should stop. We have seen that most of these cases are decided in equity and they don't need advocates but only those with experience and knowhow in the industry otherwise known as "commercial men". By having such a bias and mentality people with potential are actually being locked out because they will have to spend most of their energy fighting off stigma from other advocates who think less of them than actually working the case at hand. Therefore there is a need for a serious attitude change.
- The relevant laws that govern the Downstream Petroleum industry in Uganda are long overdue and should be passed. The Parliament of Uganda should start debating and modifying these laws so that they are appropriate and passed accordingly instead of waiting until the last minute to pass laws and find that they are wanting due to incompetence and thus require further amendments which could have been avoided if they had done so earlier.
- Without the laws in place there is no Petroleum Authority and National Oil Company to start setting guidelines on how this industry will function smoothly. This causes problems as most of the people who are going to be working in these positions will be lacking in technical expertise. This should be the right time to start training these people and preparing them for the task at hand and yet the reluctance to pass the laws also affects the creation and future performance of these institutions. The law should be passed and the Petroleum Authority and National Oil Company should be set up according to the laws so as to start preparation for the coming challenges instead of waiting for the last minute.

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Uganda Contract, 1999 Model Production Sharing Contract

UNICTRAL Model Law

United Kingdom Department of Energy Press Release, 27 Nov. 1990 titled “New Statement on Guideline for Oil and Gas Farm –in Deals “

Warwick English, Unitisation Agreements, Upstream Oil and Gas Agreements (1996) Published by Sweet & Maxwell.

TRANSCENDING THE ADULT-LINE: GENDER ISSUES IN MODERN NIGERIAN CHILDREN'S LITERATURE

By
Stephen Ese Kekeghe¹

ABSTRACT

The quest for gender harmony in Africa has engendered the redefinition of gender roles. Literature has been considered as a very effective instrument for the conveyance and interrogation of gender ideas—the rightness and wrongness of gender constructs. Based on this, so many gender theories have been created to identify a more suitable approach to the African socio-cultural root. Thus, we have Feminism, Womanism, Motherism, Stiwanism and Personism. Owing to the predominance of gender conflicts in the contemporary Nigerian society, literary texts for children are now employed to convey gender ideas to the young. Perhaps, such writers are on the premise that for effective moulding of the individual from infancy to adulthood in order to divorce gender sentiment, it is imperative to deploy children's literature for the discussion and evaluation of gender question—its stereotypism or *miscreation*. However, scholarly efforts on gender discussion are only focused on literary materials for the adult, ignoring the position of the young. This paper examines gender issues in selected Nigerian literary texts. The primary texts selected for examination include: Kola Onadipe's *Sugar Girl* (1964), Bayo Adebawale's *The Virgin* (1995) and Bayo Sanyoalu's *Adedoja and the River Goddess* (1993). This endeavour is anchored on African-feminism or Womanism as a suitable theoretical approach that best captures gender behaviours in Africa.

1. INTRODUCTION

Gender discourse has developed fertile roots in African literary scholarship. However, most of the rewarding efforts on the discussion of gender issues seem to ignore the place of the young who are undoubtedly the future adults. Literary artists have observed the significant place of children in the society; and have infused indices of gender in the literature deployed for children's consumption. It is wise to note that when these children are well moulded and sensitised, a healthier gender interaction will be realised in the Nigerian society. This implies that the children who are exposed to gender issues in literature will undergo a maturation in gender relationship, as Mem Fox (1993) observes: "Everything we read... construct us, make us who we are, by presenting our image of ourselves as girls and women, as boys and men". This assertion is logical as it palpably demonstrates the need for the education of the young ones on gender and moral problems which has a lot of effects on their psycho-socio disposition and sensibilities. As the objective of this paper demonstrates, the narration of gender roles here is "black-centered".

Perhaps, the most restrictive definition of Children Literature are those books which various authorities determine as 'appropriate' for children. It is defined as books written for children within the age of nine. This does not solely place the consumption value on children within this age limit. But it is wise to note here that at this age the children have grown to raise questions about their society. That age of curiosity is good enough for such literature.

The growing need to educate children of different races, abilities and genders has inspired educators to find literature and curriculum that best suits the mix of students in class rooms across America. Kira Isak Pirofiski in "Race, Gender and Disability in Today's Children's Literature" observes that "multicultural and non-sexist children literature also gives students in the 'majority' an understanding of the 'minority', peer struggles, triumphs and contribution to our culture and society"(49). Being an important resource for developing children's language skills, children's books play a significant part in transmitting a society's part of this culture. How genders are portrayed in children's literature thus contributes to the image of children in the development of their own roles and that of their gender in the society. Similarly, in Laura Laffrado's "Teaching American Children Literature" notes that American Children Literature emphasizes race, class and gender; and contains a rich collection of other fields such as Native American Literature, African American Literature and Women Literature. She stresses

¹ (Department of English, College of Education, Warri)

that teaching a reconstructed American Literature provides fertile ground for examination of historical, cultural and gender issues.

As stated above, this examination is centered on the theory of womanism. Womanism as an African variant of feminism is employed as a theoretical frame work in the explication of gender problems in the literary works chosen for examination in this paper. This investigative enterprise is centered on four modern Nigerian children's literary texts, namely, Ola Onadipe's *Sugar Girl* (1964), Bayo Adebowale's *The Virgin* (1995) and Bayo Sanyoalu's *Adedjoja and the River Goddess* (1993). The adoption of the womanist theory foregrounds the respect for African consciousness; however, cases of gender biases and injustices are interrogated in the texts under study. Womanism which was coined by the African American writer, Alice Walker in her collection of essays titled *In Search of Our mothers' Gardens: Womanist Prose* (1983) has been consistently used in the discussion of gender issues in Africa. Mary Kolawole is one of the most consistent and articulate advocate of the use of womanism as an African variant of feminism. Womanism as a theory evolved as a result of the deficiencies of feminism which could not cater for the subjugated African woman. To the womanists, feminism merely projects the yearning of middle class white women; and it is aimed to disrupt the African moral code. It asserts that which is abominated in the African soil like lesbianism, separatism and radicalism. African women are submissive and their yearning is for the society to upgrade their status and render them visible. Kolawole(1997:30) accentuates this notion when she posits: "the women are not seeking to replace subjugation or separatism with another. African women yearn for a society in which they can assert their innate resourcefulness by rejecting the fetters of tradition and any aspects of socialization that puts them of a disadvantage". Chikwenye Okonjo Ogunyemi's (1988) definition of womanism indubitably unfolds its relevance to the African root. She asserts:

womanism is black centred; it is accomodationist. It believes in the freedom and independence of women like feminism; unlike radical feminism, it wants meaningful union between black women and black men and black children and will see to it that men begin to change from their sexist stand. It is also interested in communal wellbeing...(65)

It is the consciousness of the African culture that is evident in Buchi Emecheta's denial of feminism in her interview with Marie Umeh. Like other important women writers that are literate in the African tradition like Ama Ata Aidoo, Bessie Heads, Buchi Emecheta repudiates feminism:

I am a feminist with a small 'f', I love men and good men are the salt of the earth. But to tell me that we should abolish marriage like the capital 'F' (Feminist) women who say women should live together and all that, I say no. personally I'd like to see the ideal happy marriage. But if it doesn't work, for goodness sake, call it off (Kolawole 1997:11)

The above features justify the need for the adoption of womanism in Nigerian children's literature in order to instill in young that undiluted culture and the suggestive innovativeness for good. That is, the need to better the status of the African woman and encourage her visibility in the society while the African value system is maintained. The children's exposure to these lore and mores will encourage their moral regeneration and refinement as they bud into adult.

2. X-RAYING GENDER ISSUES IN SELECTED NIGERIAN CHILDREN'S LITERARY TEXTS

Gender bias exists in the content, language and illustrations of a large number of children's books (Jett-Simpson and Masland, 1993). This bias may be seen in the extent to which gender is represented as the main character in children books and how gender is depicted. The examination here is on the way myths are used to define the roles and limitations of the girl child; and the logical reaction of womanist oriented scholars who question some of such injustices in the society by propelling suitable solutions that will encourage a harmonious and healthy society that is free from gender sentiment. Numerous studies analysing children's literature find that majority of books are dominated by male characters and figures. For instance Ernst (1995) did an analysis of titles of children's books and found male names represented nearly twice female names. She also found that even books with female or gender-neutral names in their titles frequently revolve around a male character. This is the unfashionable stereotypism which makes writers to create female protagonists in their children book as a way of lamenting the problems of the girl child. In the contrary, this enterprise will reveal that most roles and strengths of the individuals are not gender-based.

The unwritten laws of the Africans construct the woman in various ugly forms. These stereotypes are evenly agreed upon by both genders as respectable norms. One form of such stereotypical creation is the idea of witchcraft. It is conventional to create witches among women. However, it is almost abnormal if a wizard is identified among the men. If that is found, rather than reducing the status of the man, he is most likely to be respected and dreaded among his peers and the general society. This is never the case of women-witches who are notoriously created as outcasts. A poverty-stricken woman who is oppressed by the condition of life would be regarded as a witch without any such naturalistic evidence as to her evil manifestations. Her ugly appearance is the only visible evidence for all. This experience is lamented by Kola Onadipe in *Sugar Girl* (1965) where Ayawa, the old woman is constructed as a witch based on mere insinuations. Even Ralia as a little girl, reads from the appearance of the old woman and regards her as a witch: "her hair was grey and dirty. She was very thin. Her eyes were red and her fingernails were very long. She had lost all her teeth but for two long ones, one on each side of her mouth" (15). In an attempt to correct such misinformed notions, Onadipe makes us to understand the sad experiences of the old woman which have made her fierce. Ayawa laments:

I was pretty. Sadness and hard life have made me old and ugly but I am not as old as I look. I had seven children and I lived with my husband in the village of Apampa. I know you come from Apampa and that is why I did not like you at first. In less than three years, all my seven children died. My husband ran away from me. While he was running away he was killed by lightning.

Soon later all the village people came to my house; men and women, young and old. They carried sticks and stones. They said that I was a witch and that I had killed my children and husband (24)

The children might have died as a result of their parents' ignorance of such biomedical knowledge as genotypes. But the lack of such biomedical awareness in the traditional society gives birth to mere insinuations that revolve around superstitious configurations. In this case, the woman is unjustly prosecuted by these unfair irrational judgments. Ayawa is highly bitter and she is set for revenge: "Because of this I hate every man in Apampa. I want to kill all of them if I can" (24). It is wise to affirm here that the anger of Ayawa is justifiable. It is a reaction to a long period of unfair treatment. She is armed for revenge.

It is observed in the narrative that even fellow women help to propagate this prejudice on women. When Ayawa is confronted and interrogated on the where about of Ralia, one of the village women shouted: "Ayawa we know you, we know what you have done to Sugar Girl! You have eaten her" (44). Ayawa's response to this woman does not only prove her innocence but she succeeds in unfolding the unfairness down to her passionately, making visible her traumatic situation: Madia, you have always hated me because I was pretty and you were ugly. I am now as ugly as you. Why do you still fight me? I am ready to die" (44). Yetunde Olukemi Akorede (2011: 80) observes indices of intra-gender oppression where women show all forms of hostilities to their fellow women. As Akorede highlights, in some cases such conflict is between junior and senior wife. This implies that men should no longer be held as solely responsible for the oppression of women. As learnt in *Sugar Girl*, children are even drawn into the conspiracy to humiliate the womenfolk. Social constructs drags the children to help heighten the humiliation of the woman. Onadipe demonstrates that the children sing around the old woman and "they called her a witch and a killer of children" (46). They do this by throwing leaves, sand and stones at Ayawa. This is dramatized below:

Mother witch! Dance for us

Mother witch! Fly for us

Mother witch! Cry for us (46)

The social-construct of the woman as a witch is also created in Bayo Adebowale's *The Virgin* (1995). At the opening of the novel we are exposed to the activities of witches. We are made to understand that "it was the dead of the night" which invariably invokes tension since it is "the time when witches often danced their grotesque dance... sending a message of bereavement to the world" (1). Every objective mind will be forced to pose some logical questions: why witches and not wizards are common in the society? According to Lauretta Ngcobo in her "African Motherhood-Myth and Reality" (2007) "the accusation involving witchcraft is a common ploy designed to cause the mother's social demotion" (537). Adebowale's bias creation of this issue is unlike the objective and dialogic expression of Onadipe which calls for gender harmony and better respect for the womenfolk. With imaginative propensity Adebowale creates the voice of the witches in a dramatic intensity:

We are visitors of the remote world
 Seeking a taste of your warm blood
 At this tender age of yours
 When your deeds of life are yet undone (1).

This label or typecast is not naturalistic but hinged on some myths or superstitions. For instance in the highly patriarchal society created by Dayo Sanyaolu in *Adedoja and the River Goddess*, the position of the woman is an offensive or mysterious one—the goddess that lives in the Bote Stream is said to feed on delinquent children. Woman is therefore given this label. Odofin, the “beautiful lady” is the “queen of the river”(28-30) who hides the obstinate Doja in his quest to know the river bottom. It is reported that Odofin has been hiding children. Supo’s “grandmother had told him a story...of a boy that attempted to search for the bottom of the river and never made it out of it” (24). Lexico-semantic features of femaleness such as “beauty” are used to describe the mystery of the river bottom. Another question that can be gleaned from this judgment is: why is it a goddess and not a god that hides and feeds on children? However, in the traditional African society, women priests are unconsciously regaled. It is observed among the Yoruba that the head of the Babalawos or the Ifa Priest in the city is a woman (Johnson, 1921:64). Virtually all god and goddesses have both male and female priests, adherents and worshippers (Akorede, 2011:70). But social configuration manifests such biased judgments to debase the womenfolk. This case of gender bias is revealed by Dayo Sanyaolu’s portrait of the goddess in *Adedoja and the River Goddess*.

As characteristic of womanism, all the families created are happy homes. In Ralia’s home we notice such index of marital harmony. When Ralia’s mother gets blind, her father does everything he can to make her happy: “He fetched water from the stream. He brought firewood from the farm. He went to the market to buy things”(3). Even the hunter that saves Ralia is in real love and understanding with the wife. The submissiveness of the wife is evident. The gender relationship in this family is appealing—it is an admirable home. Black women according to Kolawole (1997), “recognize the need to unite with men in a concerted effort to reject racist and imperialist subjugation” (13). The African womanist is family centered. She is concerned with her entire ‘family’ than with just herself and her sisters. All the men in Apampa village come out with guns, cutlasses and hunting lamps in search of Ralia. This is the admirable communal setting of the African society as opposed to the Western individualism. Onadipe describes the generosity of the hunter’s wife that saves Ralia’s life:

The hunter’s wife was surprised to see a little girl so wet and cold. She did not ask questions. She quickly took off Ralia’s clothes and dried her body with a piece of cloth. She gave Ralia another cloth to cover herself up. She made Ralia sit by the fire to get warm. (35).

This is the traditional collective consciousness of the African woman. Womanism stresses the need for this communal relationship. A harmonious relationship, however, is not complete without gender interactions.

The focus on family relationship is demonstrated evidently in Bayo Adebawale’s *The Virgin*. Much emphasis is placed on family building. Every good family will be able to build good children and virtuous daughters that will make good wives. Awero’s parents advise her to love and be submissive to her would-be husband when they eventually get married. The mother advises: “And you are to give your husband food kneeling down” (39). Awero in reflection on her civic duties asserts the features of a true African woman: “it used to be the wife’s joy to serve him: to be obedient, submissive and worship him like a fanatic” (8). The mother plays her advisory function on her loving children. The western feminist militancy is interrogated here. No wonder, Benard Bell (1987:242) defines womanism as “a sharp focus on personal relationship and community”. Love is central in the home. It is said that “Awero’s mother loves her daughter very dearly”(36). There is that motherly love and tender support for the child.

Furthermore, Bayo Adebawale’s *The Virgin* conveys a moral message which reprimands sexual promiscuity. However, it is observed that the woman is the one who bears the blames on sexual scandal. When Odejimi discovers that his wife, Awero is not a virgin, a strange cold runs through him and all the respect and love he has for her suddenly turns hatred and disgust. It is reported that Odejimi looks at Awero “the way one looks at the heap of rubbish inside the rubbish pit—a matrimonial dirty linen” (105). She is therefore packed back to her family in Orita, the mother, unable to bear this shame collapses. Awero’s two sisters—Molara and Dara get married as virgins and this brings a lot of joy to them. As the foregoing justifies, the value placed on virginity and chastity in the novel validates the need for

family standard. When Awero is to be escorted to her husband, the praise singers sing of Awero's beauty showing her chastity:

Walking testimony of black elegance!
Let us see your bewitching conference.
Your angelic brow—a virgin
Pure and innocent like a child! (85)

Furthermore, many classic and popular stories where male and female characters are portrayed usually reflect stereotypes of masculine and feminine roles. Such gender stereotypes are presented in children books. Children literary texts often portray girls as acted upon rather than active (Fox 1993). Girls are represented as sweet, naïve, conforming and dependent while boys are typically described as strong, adventurous, independent and capable (Ernst, 1993; Jett-Simpson and Masland, 1993). In Adebowale's *The Virgin* we are made to understand how much the Awero is regimented. She is highly acted upon by the parents and society. Authorial comment informs us: "It was the duty of the girls' parent to protect their daughter to ensure she was not keeping a bad company, nor succumbing to temptation from men, however great" (102). This shows that it is always the fault of the woman if she succumbs to any temptation. The spoilt city boy, Dauda, who defiles Awero violently, does not receive any reprimand in the novel. The only thing people talk about is the fact that Awero is not chaste. Since Awero has promised Odejimi, she is no longer allowed to engage in any form of dialogue with men. She lost her spinsterhood long before she got married to Odejimi. We discover that Awero is not free to act independently—Odejimi shoots Lapade because he discovers that Lapade is interested in his wife to be. This points how much the girl child is robbed of her freedom. Adebowale asserts the need for the girl child to be free from the suffocating society of regimentation:

But Awero was still a spinster. She therefore has the right to welcome male visitors, if the truth must be told, the promise he has been giving him not withstanding... Beat her up mercilessly? No he hadn't the moral right to do that, Awero was not his wife yet, she was still a fiancée (70).

Patriarchal dominance monitors virtually all aspects of the girl-child's dispositions—the way she talks, moves, eats, dresses, expresses emotions, works, are all defined by patriarchy. For instance, in Adebowale's *The Virgin*, it is discovered that the girl child does not have the right to adopt her own pattern of movement except that which suits the male-dominated society. Awero's father cautions her: "see how you walk sluggishly like one with wound in the body. Awero, in your younger days, this type of movement would have earned you a slap" (29). He adds threateningly that Odejimi (Awero's husband to be), "will pursue you and beat you properly. He would twist your neck" (30). The foregoing dialogue reveals the debasement of the girl-child. It is also learnt from the above pronouncement that the girl child is constructed as fragile and always at the mercy of the boy child. This is why Awero's father threatens Awero that her would-be husband, Odejimi would beat her up severely. Boys tend to have roles as fighters, adventurers and rescuers, while girls in their passive role tend to be caretakers, mothers, princesses in need of rescuing and character that support the male figure (Temple, 1993). Womanism therefore demands freedom for the girl-child. Womanism, Bell (1987:242) avers, include "motifs of interlocking racist, sexist and classist oppression, black female protagonists' spiritual journeys from victimization to the realization of personal autonomy or creativity...". The conveyance of such consciousness on children will encourage a positive psychological maturation into the broader society in their socialization process.

It is often portrayed that girl characters achieve their goals because other help them, whereas boys do so because they demonstrate ingenuity and/or perseverance. But it is wise to note that the industrious nature of Ralia in Onadipe's *Sugar Girl* tends to react against this stereotypical creation. At the beginning of the narrative Ralia goes to the farm herself to gather fire wood. That is an admirable masculine bravery. But towards the end of the story she depends on the mercy of men—the hunter and later Prince Sahid for safety. In most cases if females are initially represented as active and passive, they are often portrayed in a passive light towards the end of the story. Girl characters who retain their active qualities are clearly the exception (Rudman, 1995).

Thus studies indicate that not only are girls portrayed less often than boys in children's books, but both genders are frequently presented in stereotypical terms as well. Here the female characters are presented with values—Ralia is the only child of her parents; Asiba is also the only child of her parents. In *The Virgin* we are made to understand that Awero's parents have three daughters and no mention made about boys (sons) and there is an affirmed joy in those families. This substantiates the fact that these

works are products of conscious efforts to render visible, the place of the girl child. They are reactions to earliest children's literature that bear male protagonists such as Achebe's *Chike and the River*, *Eze Goes to School*, Ekwensi's *The Drummer Boy* and so on. These texts which evidently react against gender stereotypes are aimed at creating an *ungendered* society without gender sentiments.

In other to react against the masculinity of protagonists in children literature as we have in Chinua Achebe's *Chike and the River* (1989), Cyprian Ekwensi's *The Drummer Boy* (1973), Adebowale, Onadipe create female protagonists so as to encourage the visibility of the African woman and at the same time lamenting the problems faced by the female child in the hegemonic society of patriarchal control. The presentation of gender roles in children's literature impacts children's attitudes and perceptions of gender appropriate behavior in society. Sexism in literature can be so insidious that it quietly conditions boys and girls to accept the way they "see and read the world", thus reinforcing gender images (Fox, 1993). Whereas, Sanyaolu creates a story that is dominated by the menfolk, giving such ugly roles of goddess and irrational mates (Adodo's old and younger wives) fighting in a polygamous home to women. Thus, all the characters in this story—Doja, Wande, Supo, Bayo, Sunbo, Mr Odetunde are males.

Sanyaolu also demonstrates the value placed on the masculinity of the boy child in the African society when the spoilt Doja is regarded as "the only child to carry on the name of the family"(3). This portrayal is also evident in the character of Mr Odetunde, the head master, who as a result of his 'maleness' is regarded as the best to mold children with antisocial behaviours in the community.

Labels of gender are also evident in the recast of their emotions. For instance, when Ralia gets lost, the mood of her parents justifies masculinity and femininity based on social construct. Thus, books containing images that conflict with gender stereotypes provide children the opportunity to re-examine their gender beliefs and assumptions. This implies that literary texts can provide role models and inspire the children to adopt more egalitarian gender attitudes. It is wise to note that gender stereotypical roles are constraining to both genders. Just as girls are trapped in passive and noisy roles, boys and men are rarely described as people demonstrating emotions of sadness and fear. When Awero's parents are confronted by the shame of their daughter in Adebowale's *The Virgin*, the mother collapses immediately; but the father bears his pain silently: "Awero's mother collapsed, but her father maintained calm and cool-headedly surveyed the strange atmosphere around him"(116). A similar experience is presented in Onadipe's *Sugar Girl* when Ralia is lost to the bush, the "mother cried out but the "father bit his fingernails deeper"(41). Contrarily, in *Adedoja and the River Goddess*, Sanyaolu presents a male character that shows emotion of fear and sadness. When Doja and the other boys are bent on going to explore the mystery of the Bote River's bottom, Supo who knows the ugly implication of their adventure fears for them tearfully, but this he considers unmanly and further expresses his regret: "Supo felt so humiliated and downcast that he let fall few drops of tears. He nevertheless felt sorry for them because he strongly believed their defiant attitude would bring no good tidings" (25). These stereotypes limit boys' and girls' freedom to express themselves (Fox, 1993, Rudman, 1995) and pressure them to behave in ways that are gender appropriate rather than ways best suited to their personality.

3. CONCLUSION

The foregoing demonstrates that children's literary texts have been employed in the treatment of gender issues. The motive is to enlighten the young to be more rational and humane in inter-gender interactions, as most gender stereotypes are erroneous. The womanist theory which is the African variant of feminism has been appropriately exploited in this enterprise. Thus, the writers whose works are examined in this paper- Onadipe, Adebowale and Sanyaolu, are conscious of gender relationship and have exposed through children's literature, varieties of gender indices for re-examination and interrogation. The ideological vision of these writers is to realize a harmonious society devoid of gender sentiments- a society that projects merit and individual resourcefulness, not gender-based social constructs.

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