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A Critique of Nigeria Federal System of Government And Particularly its Implication in the Country As A Secular State

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ABSTRACT: Nigeria is a country that has multi-ethnic groups and also multi-religious in nature. Though it is a multi-religious state, it has two major religions in the country which are Islam and Christianity. Members of these two major religions take different positions on the question of the secularity of the Nigerian state. The objective of this study was to give a critique of Nigeria federal system of government and particularly analyze its implication in the country as a secular state.

The study was historical and qualitative in nature. It also involved the use of secondary sources of data such as books, journal articles, case law, both published and unpublished materials and internet sources related to the study.

Based on the findings there were controversies in relations to the question of the secularity of Nigeria and one of such is the provision for Sharia Court of Appeal in the Constitution. Also, the Nigeria legal system which has the English Common law as its cornerstone is Christian-inspired and laden with Christian ideals and doctrines. There were spectrums of secularism and the 1999 Constitution of Nigeria did not use the expression “secular” to qualify the Nigerian state. The word cannot also be found in any section of the Constitution. However, when section 10 of the Constitution is read together with other sections of the Constitution relating to religion, especially the provisions for the supremacy of the Constitution; sovereignty of the people and the nation, freedom of thought, conscience and religion, and prohibition of discrimination on the ground of religion, as well as the provision on the supremacy of the Constitution and the sovereignty of the people, the plausible conclusion is that Nigeria is a secular state.

Finally the study concluded by recommending that future Constitution makers in Nigeria should make an express statement on the secularity of Nigeria as a state. And as a result of the divergent perspectives on the concept of secularism, it is also imperative that a thorough meaning and nature of secularism within the context of the Constitution should be given.

I. INTRODUCTION

Nigeria is a multi-ethnic and multi-religious state. The two major religions in the country are Islam and Christianity. Members of these two major religions take divergent positions on the question of the secularity of the Nigerian state. While most Christians argue for separation of the Nigerian state from religion, most Muslims advocate the merging of religion, the state and the law. To many of them, the Sharia ought to govern the totality of the life of a Muslim from cradle to grave. Many Muslims in Nigeria appear to seek to be governed by the Sharia in all their human activities. The word Sharia has been defined as the complete universal code of conduct drawn by the creator, Allah, through His Messenger, Muhammad, to mankind, detailing the religious, political, economic, social, intellectual and legal systems. It is meant for universal application, covering the entire spectrum of life, prescribing what lawful (halal) is and prohibiting what is unlawful (haram). Sharia is the Islamic law, which is based on the Quran, the Hadiths, and the works of scholars in the first two centuries of Islam.

The 1999 Constitution did not expressly proclaim Nigeria to be a secular state. However, it prohibits both states and the Federal Government from adopting any religion as state religion, and guarantees to every person the right to freedom of thought, conscience and religion as well as the right to freedom from discrimination on grounds, inter alia, of religion. On the other hand, the Constitution in chapter II under the fundamental objectives and directive principles of state policy, enjoins the state to provide facilities for, among
other things, religious life. In addition, it makes provision for the establishment of Sharia Courts of Appeal though with jurisdiction restricted to questions of Islamic personal law.

This paper will examine the concept of secularity of state in historical perspective and will consider the implication of Nigeria being a secular state. The provisions of the 1999 Constitution of Nigeria will be regarded and also consulted to know if Nigeria is recognized as a secular state.

II. HISTORICAL PERSPECTIVES OF SECULARISM

The word, ‘secular’, is derived from *saeculum* which in classical Latin meant “an age”, “a time”, “a generation” or “the people of a given time”. The word was used pejoratively in the second, third, and fourth centuries by the church fathers to refer to the temporal world in contradistinction to the eternal kingdom of God. St. Augustine, conceived of man’s nature as twofold: he is both a spirit and a body, and therefore at once a citizen of this world and of the heavenly city. To him, the fundamental fact of human life is the division of human interests accordingly - the worldly interests that centre about the body and the other worldly interests that belong specifically to the soul. He saw both the church and the empire to be living in evil times, the *saeculum*. Thus, to St. Augustine, the true Christian lived in two cities, namely the earthly and the heavenly societies.

The distinction between secular and spiritual affairs never translated to separation of religious and political affairs. For instance, Gregory VII and his supporters never doubted that secular government is subordinate to the church in spiritual matters and indirectly in secular matters, and represented divine authority, for the power of the secular ruler was established by God and law flowed ultimately from reason and conscience and must therefore be obeyed. The modern concept of secularism seeks to separate religion from politics, so that the state’s existence is not justified by theology.

A. Secularism And The Origin Of The Modern State

The origin of the modern state is traced to the Renaissance and Reformation, the split between Catholics and Protestants and the thirty years of religious wars in Europe. The Reformation, with its call for freedom of religion and conscience, resulted in the emergence of a unitary state which stood above the various religions and was able to bring the conflict to an end.

In the Treaty of Westphalia (1648) to the Vienna Congress Treaty (1815), number of treaties concluded between European States accorded religious freedom to minority groups in various states and communities. The Treaty of Westphalia of 1648 finally marked the establishment of independent sovereign nation-states in Europe. The philosophy behind the theory of sovereignty of state was to set up the King as the head of the state, the object of loyalty of all men irrespective of religious denominations.

B. Contemporary Secularism

The contemporary meaning of secularism has evoked divergent responses and has become a matter of intense intellectual dispute. To some Islamic scholars secularism is equated with godlessness. One proponent of this view is Lateef Adegbite, former Secretary-General of the Jama’atu Nasrul Islam.

**He said:** No Moslem will support a secular state. I want to say it with all the emphasis at my command because as far as we are concerned, secularity means “godlessness”; and Moslems will never support that.

This conception of secularism tries to equate secularism with atheism, which in the broad sense, means the rejection of belief in the existence of deities or God. Secularism does not mean godlessness nor is it antagonistic to religion. A godless state may indeed prohibit religious activities. In agreement with this view, Nwobosaid: The concept of secularism is apt to give the impression that Nigeria, for instance, is anti-religion. Far be it from the true meaning. The correct meaning is that the state should not actively support or propagate any particular religion in preference to others, particularly in a multi-religious society like Nigeria.

However, the assertion that the concept of secularism gives the impression of godlessness is open to objection. A secular state is not opposed to religion but tries to keep religion outside the public realm. Another scholar, Abdulrasheed A. Muhammad, while not equating secularism with godlessness, considers a secular state as one which is not concerned with religious affairs.

**He said:** Secular means not to be concerned with spiritual or religious affairs. A secular state therefore is one which is established on the assumption that political authority is completely independent of religion or supernaturalism and therefore not concerned with the spiritual life of its citizens. The emphasis here is that religion is confined to private practice and individual preference. The state will not adopt any religion as official; neither will it give overt or covert recognition and assistance to any group.

It is wrong to say that a secular state will not be concerned with spiritual or religious affairs. Secularism is actually an attempt on the part of the state to create an enabling environment for freedom of religion. To that extent, a secular state is concerned with religious affairs. It is preferable to say that a secular state is not involved in religious affairs rather than saying that it is not concerned with religious affairs.

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C. Spectrums Of Secularism

In the United States of America, the establishment of religion clause of the First Amendment which entrench the secularity of the American state has been interpreted to mean that:

*Neither a state nor the Federal Government can set up a church. Neither can they neither force or influence a person to go or to remain away from church against his will or forcing him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups, and vice versa.* In the words of Jefferson, the clause against establishment of religion by law was intended to erect “a wall of separation between church and state.”

However, this opinion only represents the American brand of secularism which may be stricter than what we have in some other societies. It is also debatable that the USA claims to be a secular state, otherwise why is the country been referred to as “God’s own country”. There are different degrees and variants of secularism. It has thus been rightly observed that it is possible to draw a wide scale of separation and find different European (secular) countries at varying positions on that scale. In egalitarian state, there is no official religion and the state is not hostile to religion. However, in this type of state, there is no total absence of the state from religious affairs as the state offers aid and protection on the basis of equality to all religions.

III. NIGERIA AS A SECULAR STATE

Having examined the concept of secularism the next question is whether the Federal Constitution of Nigeria under the current 1999 Constitution is a secular state.

A. Constitutional Provisions In Relations To Religion

The provisions of the 1999 Constitution relating to religion are set out below for the purpose of their community reading.

*Section 1 (1) – This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the federation.*

*Section 1 (3) – If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency be void.*

*Section 10 - The Government of the Federation or of a state shall not adopt any religion as a state religion.*

*Section 17 (3) - The state shall direct its policy towards ensuring that ... (b) there are adequate facilities for the exercise of religious activities.*

*Section 38 (1) - Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.*

*Section 38 (3) - No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.*

However, Section 262 of the Constitution empowers any state that wants to establish a Sharia Court of Appeal but the jurisdiction of the Sharia Court of Appeal must be limited to matters touching upon Islamic personal law. In the absence of express Constitutional proclamation about the secularity of Nigeria the question arises is whether the above Constitutional provisions entrench secularism. The Jama’atu Nasril Islam61, which expressed the opinion that Nigeria is not a secular state advanced some reasons for their position which could be summarized as follows. There is no express Constitutional provision that Nigeria is a secular state and there are the following provisions of the Constitution which negate secularism: the provisions of the Constitution enjoining the state to promote religious affairs; the educational objectives under the Constitution implying moral education which must be based on religion; the creation by the Constitution and provision for the funding of courts which apply religious laws and laws inspired by religion, the Christianization of the polity means that the country cannot be considered a secular state unless de-Christianized.

C. Obligation of the State for Provisions of Facilities for Religious Life:

The Jama’atu Nasril Islam 62 has contended that section 17 (3) (b) of the 1979 Constitution on social objectives contradicts secularism, as the section has made it clear that the government can promote religious affairs. Contrary to this view, the Constitutional injunction that the state should provide facilities for religious life does not negate the secularity of the Nigerian state. As earlier mentioned, secularism is neither opposed nor indifferent to religion. Secularism seeks to create a conducive environment for the exercise of religious
freedom. Nigeria practices egalitarian and protective secularism under which there is no official religion but the Nigerian state is under obligation to offer protection and encouragement to all religions on the basis of equality of all religions.

Thus the model of Nigeria’s secularism differs from that of the United States of America under which the state is totally separated from religion. The rigid separation of state and religion is criticized not only by Islamic scholars but by some liberal scholars.

C. Educational Objectives And Secularism

It was also contended by the Jama’atu Nasril Islam that one of the indicators that Nigerians not a secular state is the inclusion of the education objectives in the Constitution. In this view, “section 18 of the Constitution on educational objectives contradicts secularism as education means intellectual and moral training, and moral training of Muslims and Christians can only be carried out through their religions”.

What secularism sets out to achieve is to liberalise education so that it will not be dependent on religion. Secularism enables public education to be based on reason and science but as a matter of choice any adherent of any religion can base his education or moral on his religion as a matter of private choice.

D. Constitutional Provision for Sharia Court of Appeal

One of the controversial issues relating to the question of the secularity of Nigerians the provision for Sharia Court of Appeal in the Constitution. Both the 1960 and 1963 Constitutions did not make provision for Sharia Court of Appeal, even though the court existed in the Northern region. However, subsequent Constitution making processes witnessed agitation by Muslims for Constitutional recognition of increased scope of application of the Sharia.

It was contended that the inclusion of the Sharia Court of Appeal in the draft Constitution torpedoed the injunction that Nigeria should be a secular state. Looking at the matter from the prism of discrimination against adherents of other religions, Ochonkwu Somolu wondered why the Sharia Court system was specially provided for in the draft Constitution and asked whether there were prospects that those who belong to other religions will be provided with court systems which will take account of their peculiar religious beliefs.

The jurisdiction of the Sharia Court of Appeal was however limited to questions of Islamic personal law. In any case, many Nigerian Muslims are not content with the limitation on the jurisdiction of the Sharia Court of Appeal to questions of Islamic personal law. They use every opportunity to seek the expansion of the jurisdiction of the Sharia Court of Appeal to all questions of Islamic law.

E. Alleged Christianization of the Country

The Jama’atu Nasril Islam contended that Nigeria can never be genuinely secular unless the country which is already heavily “Christianized” is first “de-Christianized”.

They alluded to the political system of Nigeria as being based on western civilization which is Christian. In addition, the Nigeria legal system which has the English Common Law as its cornerstone is Christian-inspired and laden with Christian ideals and doctrines.

They queried whether a country where Sunday, a Christian day of rest and worship is work-free but in which Friday, the Muslim day of special congregational prayer, is not accorded a similar treatment can be truly said to be secular. They gave many other examples of what they termed Christian manifestations in the nation’s public life and institutions which include the use of the Christian cross as a symbol of Medical and Health Services in Government owned establishments to the exclusion of Islamic crescent which is a symbol of Medical and Health services to the Muslims; the adoption of the Gregorian (Christian) calendar for official use to the exclusion of the Islamic calendar; making 1st January of each year a work free day without making 1st Mubarram a work-free day, fixing long holidays to coincide with Christmas and Easter festivals without corresponding arrangements for the Muslim festivals. They concluded by saying that in spite of all these Christian manifestations in the nation’s public life and institutions, some Christian leaders are calling for secularism for Nigeria not of course realizing that if secularism were to be applied all these Christian manifestations entrenched in the nation’s public life must be done away with.

On the issue of Sunday as a public holiday or the fixing of dates of national events, it will be practically difficult to treat all religions equally on the matter. Fixing of date of national events may coincide or collide with the date of worship of some religious groups in a multi-religious society. Another issue is whether the conduct of an election on a day not favourable to a religious group amounts to a denial of the right to freedom of religion and conscience of the group concerned. It is held that the failure of a group to participate in an election should not affect the outcome of election on the ground that it might be difficult to choose a date that will be suitable to all the religious groups.

It is also pertinent to note that the issues relating to Christianization of the calendar, the application of Christian public holidays, and the observance of dates significant to Christians as public holidays
do not go to the question whether the Constitution has provided for the secularity of Nigeria as they were not imposed by the Constitution. These issues may rather raise the question of practical compliance with the secularity of the country as provided for in the Constitution.

The Constitution is supreme, and sovereignty belongs to the nation and the people of Nigeria and not to a religious order. Both the federal and state governments are prohibited from adopting any religion as state religion. The Constitution guarantees freedom of thought, conscience and religion and prohibits discrimination on ground of religion. Given these provisions, the conclusion that Nigeria is a secular state is compelling. This is notwithstanding the Constitutional provision for a Sharia Court of Appeal which could be considered an exception specially provided for by the Constitution.

IV. CONCLUSION

Secularism implies that religion is not the foundation of the state. Secularism is aimed at the protection of freedom of religion. There are spectrums of secularism and the 1999 Constitution of Nigeria did not use the expression “secular” to qualify the Nigerian state. The word cannot also be found in any section of the Constitution. Section 10 of the Constitution which prohibits both the Federal and State Government from adopting any religion as state religion is somewhat ambivalent. This ambivalence is accentuated by the Constitutional provision for a Sharia Court of Appeal and the Constitutional obligation on states to provide facilities for religious life. However, when section 10 of the Constitution is read together with other sections of the Constitution relating to religion, especially the provisions for the supremacy of the Constitution; sovereignty of the people and the nation, freedom of thought, conscience and religion, and prohibition of discrimination on the ground of religion, as well as the provision on the supremacy of the Constitution and the sovereignty of the people, the plausible conclusion is that Nigeria is a secular state. It is generally assumed that the Nigerian constitution is Christian based but, it should be noted here that the constitution did not provide for or make any clear reference(s) of the “Christianization” or “traditionalism” as to that of the Sharia which is Islam based. It is, however, recommended that future Constitution makers in Nigeria should make an express statement on the secularity of Nigeria as a state.

As a result of the divergent perspectives on the concept of secularism, it is also imperatively that a detailed definition of secularism within the context of the Constitution should be given. It is also recommended that the provision for Sharia Court of Appeal should be expunged from the Constitution. Matters of Islamic personal law within the jurisdiction of the court could be transferred to a special division of the High Court. This will remove every doubt about the secularity of the country.

REFERENCES

[14]. Commentary at a seminar held at the Nigerian Institute of Advanced Legal Studies, Lagos in 2000

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[46]. The Supreme Court of Nigeria held in A.G. Ondo State v A.G. Federation & 35 Ors, [2002] 9 NWLR (Pt.772) 222, that the word, “state” in the context of the fundamental objectives and directive principlesof state policy includes the Federal, State and Local Governments, as the case may be.
Local Authorities in Many Advanced Countries Enjoy Relative Autonomy from other Tiers of Governments in their operations: A Critical Examination of operations of Local Government in the Present Nigeria

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ABSTRACT: This study examined critically whether it is true that Nigerian local authority enjoys relative autonomy in their day to day operations from the Central and State Governments as that of local authority in many advanced countries do. It also examined the nature of three tier federative structure of France and Nigeria and the reasons for the failure of the model in Nigeria to guarantee Local Government autonomy as envisaged by the design.

The study was qualitative and involved the use of analysis using secondary data such as books, journals, published and unpublished articles and materials. It also made use of case law, existing literature and internet related sources to the study. It was discovered that the two countries exhibit divergence in the manner of their constitutions, which also provides difference in degree of autonomy enjoyed by the Local Government, where the constitution provides powers and rights of Local Government directly or whether it seeks to achieve these through the laws of other governmental levels.

The study concluded that in Nigeria the structure has not lifted the Local Government beyond an embedded system in a dual federal structure in which the States merely deal with Local Governments as appendages rather than as separate tier of government. And that in France, the structure provides relative political and fiscal autonomy, but inhibits smooth fiscal control by Federal Government that makes constitutional changes more frequent. Finally and against the drub in both experiences, it is seen that federalization through constitutionalism still has its limits.

Keywords: Three tier federative structure, France, Nigeria, Local Government, Autonomy, Constitutionalism.

I. INTRODUCTION

Federalism was originally conceived as sharing of political powers between two levels of government. According to Steytler (2005), he remarks that the first model federal constitutions of the modern era did not include Local Government as an order of government; thus, making Local Government a creature of state, regional, or provincial power. Today, the concept of federalism has gradually diffused to include various categories of decentralization arrangement that involves not just two levels of government i.e. the union and the federating units like states, cantons, regions, provinces, but also the Local Governmental level or municipalities. Again, Steytler was of the opinion that it is no more the issue of how power is shared between the federation and the second level federating units but how the Local Government powers, functions, and financing should be given some constitutional leverage and protection that are beyond the wishes and caprices of the higher tiers of government.

The Constitutions of many advanced countries such as Germany (1949), Spain (1978), France (1982), and also, the developing countries like India (1992), South Africa (1996), Nigeria (1979/1999) to mention a few have all made constitutional provisions that aim at ensuring significant decentralization and local autonomy. Nigeria and France are considered in this study. The two countries have enormous differences that can be counted, in their model and Local Government systems. Nigeria practices the federal presidential system of government while France is a unitary Republic. Both countries have experienced autocratic regimes like military governments that have tended to
concentrate power at the centre. Though Nigeria is not in any dimension comparable to the French landmass, it has substantial centrifugal forces that require effective decentralization to satisfy local desire for relative autonomy. Ikeanyibe (2008:31-32) noted that ‘in Nigeria where ethnic nationalities are inclined towards self-determination, there is no gainsaying that the Local Government as constitutionally recognized would serve to grant some level of political autonomy to small ethnic nationalities’.

The importance and the constitutional recognition of Local Government as a third tier government in designing the two countries’ political structure are therefore a means to balance centrifugal and centripetal forces. The key question remains whether Local Governments system in Nigeria have enjoyed relative autonomy from the Central Government as in the case of their counterparts in France.

As Gamper (2005) asked, can the Local Government level be equal third partners as units in a federal contract? Have the de jure constitutional provision and protection of basic powers, functions, financing of Local Governments de facto ensure adequate and relative autonomy for the local government system of France and Nigeria? This study is an attempt to examine this ever recurrent decentralization poser in the case of France and Nigeria. More specifically, the guiding research questions are: What are the special features of the Local Government structures of France and Nigeria? To what extent has this model facilitated the institutionalization of significant autonomy for the two countries’ Local Government systems?

What are the lessons drivable from the model and its practices in both countries for the theory and practice of Local Government administration?

The study is mainly historical and descriptive. It is qualitative in nature drawing sources largely from constitutional provisions on Local Government in both countries, books, articles, journals, published and unpublished materials and existing scholarship on Local Government autonomy and intergovernmental relations.

2. The concept of Federalism and the importance of independent functions of States and Local Governments

The word federation is enlarged to describe various kinds of State organizations. This invariably leads to various kinds of theories about the process, structure, and the overall aim of the principle of federalism. It should be noted here that one cannot be discussing issues relating to local government and independent functions without investigating the concept of federalism which simply implies the sharing of powers between the federal and component units. The word is derived from Latin ‘foedus’ meaning pact, alliance, covenant, an arrangement entered into voluntarily and implying a degree of mutual trust and duration (Dosenrode, 2010). Obianyo (2005) observes that even though federalism has attracted a wide variety of meanings and definitions, it has not lost its essential characteristics or content, which in the view of Wheare (1964), is the method of dividing powers of government in a State so that general and regional governments are each within a sphere, coordinate and independent. It is the idea of self-rule and shared rule, which Wheare (1964) and Elazar (1987) regard as the federal principle. For Wheare, (1964: 35-36), the workability of the federal principle is possible on the recognition of the dual prerequisites of federalism which according to him entails that the communities of states concerned must desire to be under a single independent government for some purposes, and secondly, they must desire at the same time to retain or establish independent regional government in some matters at least.

A critical factor is how this selfrule and shared rule is realized. There is also the issue of whether Local Governments can actually be a coordinate partner in the federal contract. Wheare (1964) identifies a number of principles which define a federation. These are: The division of governmental responsibilities between levels of government; A written constitution spelling out this division and from which federal and state authorities derive their powers; A judiciary independent of both levels of government that acts as an arbiter in cases where there are conflicts over the jurisdictions enumerated in (1) above; Coordinate supremacy of the various levels each in its respective field of operation; the citizens of the federation being concurrently under two authorities and owing loyalties to them; the powers to amend the constitution to be exercised by both levels of government acting in cooperation; Financial independence of both levels of government as financial subordination makes an end of federalism.

From the above, constitutionalism is seen as significant in the allocation and protection of powers of Central Government and coordinate units, hence the requirement that constitutional powers of changes and amendment must be exercised by both levels of government.

In the expression of Obieche (2009), the alternative theoretical bent in explaining federalism is that which stresses the role of the socio-political make-up of a country and the diversities within rather than power sharing. These theories are relevant in this work because it basically explain federalism as an instrument for managing diversity and ensuring the independent functions of units that are sociologically different from others within a polity. Among the foremost proponents is Livingstone (1985:22) who explains federalism as a device by which the federal
qualities of a society are articulated and protected. For him, the essential nature of federalism is to be sought for not in the shading of legal and constitutional terminology but in the forces of economic, social, political and cultural systems that have made the outward forms of federalism necessary. A federal government is merely a device by which the federal qualities of society are articulated and protected.

Powers are dispersed but they are less sharply separated as in a dual system. Often policy that is established on the central level is executed by the federating entities. The sociological and integrative theorists will rather prefer that constitutionalism in federations should not be such as to hamper cooperative relationship between tiers of government since federalism is a process rather than a structure (Elazar, 1987). The model apparently recognizes the Local Government as a partner in the federal contract because of the emphasis on cooperation and principle of subsidiary. By ‘constitutionalizing’ the Local Government system, dual federalism is further extended to three-tier arrangement.

Today, countries are growing in numbers who pursue this programme in the bid to ensure guaranteed independent functions and local power devolution that goes beyond the wishes or laws of higher level governments. Chaturvedi (2006), defines independent functions or what may be referred as autonomy as a grant of authority to a political organization within a geographical area to decide and determine its own course of action. Awotokun & Adeyemo (1999) define it in relations to the Local Government as a system in which Local Government have an important role to play in the economy and the intergovernmental system, have discretion in determining what they will do without undue constraint from higher levels of government, and have the means or capacity to do so. They prescribe what they describe as three dimensions of Local Government independent functions. These are (1) Local Government Importance (2) Local Government Discretion and (3) Local Government Capacity.

Local Government Importance is explained in terms of the relative role of Local government in the state economy and intergovernmental system. As they averred, “A local government system in which local government is free to do what it wishes but has no possibility of doing anything important does not conform to our concept of local functions that are independent in nature.” Local Discretion refers to “the ability of local government to engage in activities as it sees fit, free from constraints imposed by the state government”, while Local Government Capacity conceptually includes a broad range of attributes, including resource sufficiency and stability, professional skills, management competence, quality of service delivery(Awotokun & Adeyemo,1999). It is important to point out that these aspects of Local Government autonomy apply to both unitary and federal states and may not require constitutional provisions. The constitutional provision of powers of Local Governments within a federal state relatively places that power above what can ordinarily be changed by the laws made by higher order governments, and thus elevates local governments in such countries to having a stake in the federal contract in which that power cannot be tampered with unilaterally. This as well, does not seem to ensure the importance, discretion and capacity of Local Governments. Relative autonomy is therefore conceived here as the degree of being self-governing by the Local Government level granted by the federal constitution itself. It is a relative freestanding of Local Government to carry out functions or exercise powers in accordance with constitutional provisions rather than as granted by the laws of the second tier level government within which a Local Government exists.

Following from the above, we can then operationalize the concept of Local Government autonomy here in terms of (1) Assigned powers of Local Government granted by the federal constitution itself rather than the laws of State, provincial or the second tier level governments (2) fiscal federalism that recognizes the Local Governments in constitutionally stipulated tax bases and fund sources, and, capacity to enjoy the above two without interference from higher level government.

These features accommodate both de jure and de facto existence of Local Government autonomy vis-à-vis the imperatives of the federal constitutional provisions.

3. Examining the Local Government Relative Autonomy in the Federative Structures of France and Nigeria

As indicated above, the Local Government relative autonomy in France and Nigeria in this study is evaluated in terms of (1) the constitutional basis of Local Government powers as provided and protected by the federal constitution and (2) fiscal federalism that recognizes the Local Governments in constitutionally stipulated tax bases and fund sources.

France has three levels of Local Government namely the Communes, Départements and Régions. The first two were created immediately after the Revolution, in 1789 and 1790, while an act of 1982 established the third level of “self-administration”. These three levels share the juridical status of “collectivités territoriales,” created under the Constitution of 1946 and confirmed by that of 1958; they are entitled to “administer themselves freely by means of elected councils and under the conditions provided by the law”. Their activities are governed by a Code - the ‘code général des collectivités territoriales’Other administrative units also exist - ‘arrondissements’ and ‘cantons’
Local Authorities In Many Advanced Countries Enjoy Relative Autonomy From Other Tiers Of…

as sub-divisions of the départements; and ‘communautés urbaines’, ‘districts’ and ‘pays’ as agglomerations of small communes in urban and rural areas. The position of Local Government in France is strengthened through case law in the Constitutional Council which establishes the principle that: ‘the autonomy guaranteed by the Constitution has to be respected by Parliament when regulating Local Government by law, as it is entitled to do. There is a core undetermined which should not be infringed by acts of Parliament’ (Prud’homme, 2006).

France is a unitary Republic and ‘no section of the people may take over the exercise of sovereignty’. In theory the Parliament does have the power to regulate local government at will. In France the ‘code general’ entrusts the Communes with certain mandatory functions (competences, obligatoires). The principal ones are school buildings, fire, police, preventive health, land use planning, road maintenance, and some social welfare benefits. Otherwise, as noted above, all levels of Local Government enjoy ‘territorial competence’ which was first granted to the Commununes in the Municipal Act of 1884. The major discretionary functions exercised by the communes relate to culture and tourism, social assistance, and aid to industry.

In practice, because of the very small size of the majority of communes (90% have fewer than 2,000 inhabitants) they have been obliged often by fiscal pressure from the State to join together in a multiplicity of joint organizations in order to preserve their local autonomy. About 900 of these joint organizations are vested with powers of taxation (Prud’homme, 2006).

Because the three levels have parallel powers, there is pressure for the three levels to co-operate both in planning and execution. Generally the départements vie to represent in the regional councils the interests of the small communes, the great majority of which have no local leaders to represent them, particularly against the strong representation of the large cities. The untidiness of the system contradicts the principles of clarity and function and accountability. Nevertheless it ties interests together from top to bottom of the governmental ladder in networks of communication and influence.

In France local authorities are obliged by law to decide their annual budgets by a fixed date, to present balanced budgets, and to provide for all obligatory expenditure. They are required to follow guidelines established by the Ministry of Finance, and to observe limits set on their freedom to fix and to vary their taxes. Otherwise they are free to spend as they wish. The levels of the principal local taxes, on which all three levels of government draw, are set by the local authorities; but they are collected by the national tax office and redistributed. These are the taxes professionelle (49.6%) levied on industrial and commercial businesses and liberal professions; the foncier bâti (26.1%) levied on owners of buildings; the foncier non-bâti (2.1%) levied on undeveloped urban land, agricultural land and forests; and the taxe d’habitation (22.2%) based on the rental value of dwellings (Dosenrode 2010).

According to Dosenrode, (2010), over 75% of commune revenue is from these four taxes in the proportions indicated above. The regions and departments draw on all these, but also rely for between 30% and 40% of their revenue on indirect taxes - the Regions on electricity consumption, vehicle registration, and property transfers; the Departments on motor vehicle tax, and land registration.

As in the case of Nigeria, the 1999 constitution, which does not differ significantly from the 1979 constitution that introduced the idea of third tier Local Government provides in various sections the nature, number and names, functions, funding and many other issues that are meant to guarantee constitutional autonomy which gives Local Government its independent functions. These include:

i. In Section 1 (2) the 1999 Constitution provides that “Nigeria shall be a Federation consisting of States and a Federal Capital Territory.” But in section 3(6), it also provides that “There shall be 768 Local Government Areas in Nigeria as shown in the second column of Part I of the First Schedule to this Constitution and six area councils as shown in Part II of that Schedule” making the number of Local Governments 774;

ii. Section 7 (1) provides that the system of Local Government by democratically elected Local Government Councils is under this constitutional guaranteed, and accordingly, the government of every state shall ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils;

iii. In 7(5), it provides that “The functions to be conferred by Law upon Local Government Council shall include those set out in the Fourth Schedule to this Constitution.”

IV. Section 8 provides a complex procedure for creating States or Local Government. Section 8 (3) particularly provides for a bill for a law of a House of Assembly for purpose of creating a new Local Government area to be passed by the National Assembly;

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V. The 1999 Constitution stipulates an arrangement that allows for statutory allocation of public revenue from the federation account to States and Local Governments (Section 7(6) declares: Subject to the provisions of this Constitution–

(a) The National Assembly shall make provisions for statutory allocation of public revenue to Local Government Councils in the Federation; and
(b) The House of Assembly of a State shall make provisions for statutory allocation of public revenue to Local Government Councils within the State.

(c) Section 162, the Constitution provides some details about allocation to local governments thus:

(d) “Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the Local Government Councils in each State on such terms and in such manner as may be prescribed by the National Assembly.”

(e) The amount standing to the credit of Local Government Councils in the Federation Account shall also be allocated to the State for the benefit of their Local Government Councils on such terms and in such manner as may be prescribed by the National Assembly.

Most of the provisions on Local Government incorporate some ambivalence. For instance, Local Governments are primarily to be created by State laws. Since the constitutionalisation of Local Governments in 1979, there have been issues about establishing elected councils as provided in the constitution, creation of new Local Governments outside those recognized in the constitution and releasing of revenues to the Local Governments.

Since the return to democracy in 1999, States have not generally respected constitutional provisions on Local Government. Despite the provisions of the 1999 constitution in Section 7 (1), many States have continued to appoint non-democratically elected councils. Those that hold elections virtually restrict competition.

In 2004, former President Olusegun Obasanjo threatened to withhold the federal allocations of some States that created new Local Governments. The affected states were Lagos, Ebonyi, Kastina, Niger and Nasarawa (Obianyo, 2005). The federal government also made its threat real by stopping the federal allocations to Lagos State Local Government Councils pushing the State Government to take the Federal Government to court on the matter.

For all intents and purposes, it is clear that basic features and powers of Local Governments in France and Nigeria are de jure provided in their constitutions. While the French case can more clearly be seen to actually place Local Government on a third tier status, the Nigerian case is ambivalent and provides legal loopholes that have generated more conflicts in intergovernmental relations.

In Nigeria, Local Governments de jure share in fiscal federalism in two ways: (1) direct financial allocations from the Federation Account in the same way the federal government and states also get allocation and (2) internally generated revenues also stipulated in the federal constitution. Section 162 (3) of 1999 constitution provides that ‘any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the Local Government Councils in each State on such terms and in such manner as may be prescribed by the National Assembly’. Unfortunately, the Local Governments do not get their allocations directly but through the States. Section 162 (5, 6,7 and 8) of the 1999 constitution provide guidelines for making federal allocations to the Local Councils. Federal allocations for the Local Councils are first allocated to the States for the benefit of their Local Government Councils in such manner and terms as may be prescribed by the National Assembly (162:6) through the ‘State Joint Local Government Account’ (162: 7) and then distributed among the local government councils of that state on such terms and in such manner as may be prescribed by the House of Assembly of the State (162:8).

In the Second Schedule, part II (10) and Fourth Schedule of the 1999 constitution, the sources of Local Government internally generated revenues include tenement charges on private houses, rates, stipulated licenses, fees and fines, rents on Local Government properties such as market stalls and motor parks.

In Nigeria, a large part of Local Government funding also come from federal allocations. The internal revenue sources as provided in the Second Schedule, part II (10) and Fourth Schedule of the 1999 constitution include taxes, rates, licenses, fees and fines, rents on Local Government properties such as market stalls and motor parks. The greatest problem with most of these sources as Oguonu (2007:138) remarks is that most of them are yet to be tapped in most Local Governments.

II. CONCLUSION

The practice of entrenching the autonomy of Local Governments constitutionally is becoming a popular international practice. Both federal and unitary States adopt this practice. In a federation, the approach somewhat
elevates the Local Governments to a third tier status that makes them partners to the federal contract. This practice does not necessarily guarantee de facto autonomy to the Local Government system (Steytlcr, 2005).

For the Nigerian case, the approach employed in allocating the powers of Local Governments is to make the powers and functions of Local Government Councils immature without the laws of the States. This approach fails to realize the goal of political independent functions of the Local Government. The power of bringing the Local Government Council into existence is purely a matter of State Government as provided in section 7 (1), “...government of every state shall ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such Councils”. In most of the functions or rights of Local Government including the issue of fiscal allocations, it is ironical that the State House of Assembly is mentioned as the determiner of the functions or allocations despite constitutional provisions.

For instance, while the Local Government Council has power to make assessment for tenement rates, the taxes to be levied are “as may be prescribed by the House of Assembly of a State.” The failure to clearly establish the powers, functions, direct access to federal allocations and other protections for Local Government in the constitution makes the Nigerian Local Government system not to enjoy relative autonomy as it is being enjoyed in France.

In conclusion and as Nwabueze (1994) argued, if the State Government has the constitutional power to establish Local Government and to define its structure and functions which the constitution also specifies, it clearly and necessarily implies that Local Government is a mere agency of the State Government in Nigeria. Rather than help realize Local Government relative autonomy, constitutionalisation of Local Government in the manner perfected in Nigeria, encourages conflict between the States and Federal Government, and even competition between the States and their Local Governments. The 1982 constitution of France not only provides principles, rules and rights, but also a wide range of public policies for the municipalities. Local authorities have also managed to turn the complexities of the bureaucratic system to their advantage and create their own room for manoeuvre.

REFERENCES
[20]. Reality, Toronto/ Merven

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Local Authorities In Many Advanced Countries Enjoy Relative Autonomy From Other Tiers Of...


The Role of Counselling in Improving Uptake, Acceptance and Retention in PPCT Services: MSF- B, Kibera Experience.

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ABSTRACT: It is estimated that about 100, 000 babies are born to HIV +ve mothers in Kenya every year. Without intervention, 30-40% of these would acquire the virus vertically. PPCT programs have been in place to offer the much needed interventions to reduce mother to child transmission to a minimum. During ante-natal care, routine HIV testing was being done by Clinicians / Nurse Midwives with minimal Counselling – which lead to a big loss to follow-up. In Kibera, MSF –Belgium incorporates Counselling right from the initial testing and subsequent. This paper was presented in the KAPC 8th Annual conference September 2007 that brought together over three thousand Counsellors / Psychologist’s fraternity from all over the world at Safari Park Hotel in Nairobi Kenya to share practical challenges in counseling field. The paper explored The role of Counselling in improving uptake, acceptance and retention in prevention of parents to child transition (PPCT) services in Medecins Sans Frontieres Belgium’s Kibera – Kenya’s experience. Methodologically, the paper utilized primary data collection based on practical experience of the Counsellors with the client for a period of over four year’s follow-up sessions through clinic appointments. Secondary data was basically drawn from medical records.

Keywords: Counselling, uptake, acceptance retention, PPTC, Kibera informal settlement.

1. INTRODUCTION

The material for this article comes from own experiences in working in the Prevention of Parent to Child Transition (PPCT) clinic with client on Highly Ant-retro Viral Therapy (HAART) for the past 15 years coupled with the experiences of other counselors detailing the stresses they encountered within this field. The Counsellors work within the voluntary, public and private sectors.

The process of PPCT Counselling involves; Group pretest counselling where between 5 to 8 patients are brought together for pre- test counselling to save their waiting time given that there was only one counselor in PMTCT clinic to reach as many clients as possible. Then patients are send out and Individual post counselling is offered to maintain confidentiality since in the slum each person knows the neighbors.

For those who are HIV reactive, baseline investigations involving CD4 counts would be done whose results are ready in less than two weeks to determine if they would be started on ARV or continue with CTX treatment. If CD4 results are less than 500 cells or counts, then one plus partner are prepared for ARVs initiation. This involves two sessions two weeks apart giving them a chance to reflect on lifetime treatment and follow-ups at the facility to avoid defaulting from taking treatment. This involves first session on the day of CD4 results contacts followed by second session visit where information about PPCT, CD4 results counselling on benefits and side effects of ARVs are explored coupled with any other psychosocial issues.

During the second session, of week two on HAART, the client is taken through adherence counselling process based on: Pill count, Opportunistic infections, side effects, & psychological conditions, Patient
empowerment through; issues around disclosure to sexual partner, Joining mini –groups, Post -test clubs and Treatment literacy sessions. Subsequent adherence session ns at: 1 month on HAART, on patient request and Referral from clinician. All the above issues are reviewed at any point of these stages. And for those who are non-reactive, repeat zero positive test is done after every three months and if +ve, the trend is followed.

This paper explored the role of counselling in improving uptake, acceptance and retention in PPCT services: MSF- B, Kibera experience. The paper was based on a personal coupled with colleague’s experiences with PPCT clients who attend MSF-B clinics in Kibera slum that was presented at Kenya Association of Professional Counsellors (KAPC) 8th annual conference at Safari park hotel in Nairobi in 2007.

Medecins Sans Frontieres (MSF) is an international, independent, medical humanitarian organization that delivers emergency aid to people affected by armed conflict, epidemics, exclusion from health care and natural disasters. MSF offers assistance to people based on need and irrespective of race, religion, gender, or political affiliation (www.msf.org).

MSF has been continuously working in Kenya since 1987. It was the first organization to provide free antiretroviral (ARV) therapy in public health facilities in Kenya. MSF –B established programs in Nairobi’s Kibera slum in 1997 to provide urgent medical care, such as for people living with HIV/AIDS coupled with Sexual Gender Based Violence (SGBV). The Kibera South and Silanga health centers were run jointly by MSF and the Ministry of Health (MoH) County of Nairobi.

Prevention of Parent to Child Transition continues to be a major social and medical issue of concern in the slums of Nairobi. Each month many come to MSF clinics for treatment in Kibera slum. It is in view of this that the paper sought to highlight the role of counselling in improving up -take acceptance and retention in PPCT services: MSF- B, Kibera experience.

II. RESEARCH METHODOLOGY

Data was collected from monthly reports, Counsellors personal inputs; Client’s & Care givers verbal inputs through mini-groups & empowerment sessions. Feedback from Post Test Clubs members and leaders through Treatment Literacy sessions.

III. RESULTS AND DISCUSSION

This involved the counsellors from day one to improve uptakes, acceptance and retention to PPCT service. The programme also opened doors to spouses and family which lead to behavior change where Men were more involved and offered support especially among discordant couples coupled with those who did not disclose had poor adherence.

IV. CONCLUSION AND RECOMMENDATIONS

It is important to involve Counsellors from 1 testing and in follow-up in order to improve uptake, acceptance and retention to PPCT service. Men should be involved more in PPCT programs to improve disclosure, reduce societal stigma & discrimination and improved outcomes.

Last but not least, Counselling should be incorporated in the medical interventions of PPCT to inform and empower clients in such facilities as demonstrated by MSF-Belgium.

Therapeutic moments for a client is realized when the Counsellor enters the client’s darkest world and experience it together with the client. It is that moment of sharing the suffering and pain for those few minutes during the session, and allowing the client to decide what to do: even if it means, going back to their source of suffering while the Counsellor remains warm and non-judgmental. Hence, just being there for them! (Collins, 1994). Ellis (1984) suggests that the Counsellor should search out the absolutistic viewpoints and obsessive demands that seem to trigger their difficulties. Hellman et al. (1987) unveiled that more inflexible Counsellors reported greater levels of stress compared to their flexible counterparts.

To battle these forces, two important strategies for the Counsellors are recommended to; If Counsellors acknowledged their own injuries and become involved in their own self-healing, the risks to their clients would be minimized. Lastly Counsellors should adopt the role of personal counselling and supervision which would give them essential and realistic feedback.

REFERENCES


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A Tale of two Cities: A Case Study on the Regional Communication Differences in Texas

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ABSTRACT: In a society fixated on the global business scene, this case study steps back to consider cultural differences between regions within a single state. Business communicators across the globe must adapt styles in order to reach differing client bases. However, according to this study, the same is true when business persons seek to effectively communicate across regional differences within a single state. This case study provides an insightful look into the business cultures of two Texas towns and discusses how we manage identity in both.

Keywords: Communication, Identity Management, Authority, Intercultural Communication

I. INTRODUCTION

There is an evident difference in how business is conducted around the world. However, we rarely consider the differences in how business is conducted across a single nation, and even less rare are the studies of a single state’s regions. This case study seeks to better understand the experience of two financial advisors who found a distinct difference in the business culture of Dallas, Texas, and Tyler, Texas. This paper will first look at the regional differences between these two locations, recognize the different aspects of business culture, understand the experience these two financial advisors had when moving from Dallas to Tyler, and explain the difference in these two subcultures.

II. REVIEW OF LITERATURE

To better understand why there is a difference in the business communication cultures of Dallas and Tyler, we must first better understand the history of those who settled there. “The original North American colonies were settled by people from distinct regions of the British Islands, and from France, the Netherlands, and Spain, each with their own religious, political, and ethnographic characteristics”. Even though it has been centuries since these cultures first came, their ways of life still influence us today. Woodard has found there to be eleven distinct regional cultures within North America. Texas is composed of three of these regions: The Deep South, Greater Appalachia, and El Norte(1, p 2-3).

For this Case Study, we will be focusing on the Deep South and the Greater Appalachia. According to Woodard’s map, Dallas falls in the Greater Appalachia region and Tyler falls in what is considered the Deep South. These two cities that are a mere 100 miles apart fall on the regional line that divides the Greater Appalachia and Deep South regions of Texas. The Greater Appalachia contains north and middle Texas while the Deep South contains southeastern Texas.

“[The Greater Appalachia] culture had… a warrior ethic and a deep commitment to individual liberty and personal sovereignty. Intensely suspicious of aristocrats and social reformers alike, these American Borderlanders despised… Deep Southern aristocrats… For most of American history, [the Deep South] has been the bastion of white supremacy, aristocratic privilege, and a version of classical Republicanism modeled on the slave states of the ancient world, where democracy was a privilege of the few and enslavement the natural lot of the many. It remains the least democratic of the nations, a one-party entity where race remains the primary determinant of one’s political affiliations.”

(1, p 8-9)

These brief descriptions of the initial regional culture tells us a lot about those who live their now. The Deep South was full of aristocrats who believed in white supremacy. The Greater Appalachia despised the actions of their neighbors to the south and believed that everyone was entitled to individual liberties and personal sovereignty (1, p 8-9).
When taking Woodard’s research into consideration, this could be the historical reason for why these two regional cultures behave so differently. The ideals and values of those who initially settled in these regions influence those living there today. Regional culture differences are not the only factor however, for this case study we must also take the business culture into consideration.

Business Culture is what makes a business unique. Just as one can see a distinct difference when traveling between different countries, every business has a distinct culture that has been influenced by the company’s location, ideologies, and profession.

As discussed previously, the regional influences can have just as great of an impact on the business culture as the physical location. Two similar companies in the same state can have entirely different cultures depending on what region they are located in. After which you must also take the company’s physical location into consideration. In the big city, life and business move at a faster pace than in a small town in the country. If you work in a small town, you’re more likely to take a car to work. If you work in a big city, you are more likely to take public transportation. So what type of car you drive may not matter in a city where few people drive to work as compared to a small town.

Ideology is “the mental framework different classes and social groups deploy in order to make sense of the way society works... Most of us are unaware of our ideologies and the tremendous impact they can have on our lives” (2, p 339). The founders of a company will typically have the biggest influence over the ideologies of the company since they are the ones growing and shaping the company. However much like a tree, the more a company grows the farther it moves away from its roots. As it grows a company will begin to branch off to new ideas, further straying from the original philosophies on which it was founded.

When a company’s ideology changes, the culture changes. This not only affects the working environment, but also the hiring process. Men and women going into new companies must meet the cultural expectations as well as the professional expectations. So even if a person meets all of the professional expectations, they may not get the job simply because of the cultural difference. As a result, professionals must converge to the culture of their career through what they say, wear, and drive.

Convergence is a form of accommodation, “a strategy of adapting your communication behavior in such a way as to become more similar to another person” (2, p 393). If professionals don’t converge then they isolate themselves and put their future at the company at a risk. Either they will get tired of feeling alone and outcast or when cutbacks come their superiors will pick out the outliers.

Convergence to a company’s culture may be as simple as wearing business attire when you prefer casual attire or it could mean compromising your ethics when representing a guilty client in court. This could also mean changing what type of vehicle you drive.

As human beings, we illustrate meaning through discourse (2, p 342). Through discourse we may assess that money correlates with success. When people see a man or woman driving an expensive car, such as a BMW or Porsche, they associate that with success. Regardless of whether or not they can afford the car, we still associate expensive cars with monetary success. The opposite may be true as well. An interviewer may assume that a person may not be a good candidate for the job based on what type of car they drive. Much like how pharmaceutical commercials seem more credible when they’re supported by an authoritative figure in a lab coat, the type of car a person drives can give him automotive authority.

This could be considered a form of economic determinism. Economic determinism is the “belief that human behavior and relationships are ultimately caused by differences in financial resources and the disparity in power that those gaps create”, or the separation from the haves from the have-nots (2, p 341). By buying expensive suits and cars, a businessman can distinguish himself or herself as a haverather than a have-not and will be considered a better candidate for success. A great example of this is the movie “How to Succeed Business without Really Trying” (4, 1967). In this thematic interpretation of the satirical novel, a window washer changes his appearance and adapts his personality to climb to the top of the corporate world with no professional experience whatsoever (4, 1967). By giving the appearance of success, more opportunities for success are given to him.

Not all companies expect their employees to drive expensive luxury cars or wear designer suits. Depending on the profession, the expectations may change. Lawyers and most businessmen will always be expected to wear suits where as nurses and doctors will wear scrubs. Blue collared workers such as mechanics and police officers may be expected to wear a uniform where as engineers and teachers may wear business casual attire. The income brackets of each profession also change the expectations. A corporate lawyer will make significantly more than a teacher, and what vehicle he drives will reflect this. Similarly, the type of car one drives may not matter in some professions, but may be vitally important in others. “According to the findings of a study done in the San Francisco Bay area, owners of prestige autos receive a special kind of deference from others” (3, p 190). So the type of car one drive influences the way that others see him or her. A person may receive more or less initial respect based solely on the type of car he or she drives.
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III. RATIONALE AND METHODS

Based on the literature it is therefore reasonable to assume that there is a distinct business cultural difference between Dallas and Tyler. This study seeks a better understanding of these cultural differences. For purposes of this study, we interviewed two business professionals who moved from Dallas to Tyler in the past two years, yet stayed with the same company. Interview data was transcribed and analyzed for thematic outcomes.

The business culture may vary based on the company’s location, ideologies, and profession. The possibilities are endless, and being able to identify the business culture using these characteristics can be vital when job hunting. Two businessmen found this to be true when moving from Dallas to Tyler. According to their respective census data, Dallas is a large city of 1,258 million people whereas Tyler is a small city of 100,223 people. Even though these cities are less than 100 miles apart, the cultural differences in business are greatly different.

IV. RESULTS

The two businessmen who were interviewed for this case study are financial advisors at a financial service company in Tyler, Texas. The advisors are contracted to the company, but they each manage their own individual business within the company. Advisors may represent multiple offerings, firms, groups, companies, families, etc. The advisors are responsible for meeting with clients to discuss their personal finances and to help them achieve their financial goals. The goal is for each advisor to effectively grow their individual business within the larger organization.

Both advisors noticed a distinct cultural difference in how business is run in Tyler as compared to Dallas. There was a higher level of accountability within Tyler than in Dallas.

“I think [culture and image] matters here [in Tyler] a little bit more because [it’s a] smaller town...[with] more connected and interwoven circles. I think it can be more dangerous here [in Tyler] to not handle your affairs with a level of integrity and honesty. Honestly we’re going to aspire to the highest level of integrity and honesty in everything that we do. But I think that it matters here more because the damage that can be done is a lot more significant. Whereas in Dallas I may see my client once or twice a year in client meetings and then I’m not going to see them again through the remainder of the year because Dallas is just so large. You can kind of blend in [and] disappear...”

Subject B

They claimed that face-to-face business was run the same in Dallas as it was in Tyler. In Dallas, business was conducted solely in the office place, while in Tyler business is continued outside the office place. In Dallas, clients were prompted by monetary success, while in Tyler clients were prompted by the existence of both monetary and domestic success. In Dallas, your success is reflected in the types of clothes you wear and how you present yourself in person and on social media. In Tyler, your success is reflected in the type of car you and your spouse drive, the expensive house you live in, the private school your children go to, the neighborhood you live in, your church involvement, your children’s extracurricular activities, and more.

“Image in Dallas is all what you want to project on a private level, like what you choose to show people, so you can talk a big game in Dallas. You can meet someone at a restaurant in Dallas and have an hour to two conversation and be projecting [a certain] image the whole time. But in Tyler it takes more than that: the car, the house, the country club membership to actually convince people of image. Versus in Dallas you can do it all on Facebook with a bunch of pictures. In Tyler the society image is much more important... You’re graded on a different scale.”

Subject A

Business moves faster in Dallas as compared to Tyler. The advisors noted that in Dallas it could take them two weeks to get started on a new project whereas in Tyler the same project could take them three to six months depending on the client. The city is more face-paced where as Tyler is more laid back when it comes to business.

The pace that business ran was also reflected in the promoted lifestyle one led in Dallas as compared to Tyler. In Dallas, Subject B noted that he was more career driven because he primarily hung out with work friends outside of work and because of the lifestyle that is promoted in a big city like Dallas. Subject B believed this competitive, fast paced environment led individuals to pursuing their careers while leaving their personal lives on hold. As a result, individuals living in the city begin to build their identity around their career. In Tyler, Subject B noticed that the atmosphere promotes a more family driven lifestyle where you rarely see your coworkers outside the office place. Because of this slow pace environment, individuals tend to focus more on their personal success while their careers make a steadily climb up over the years. As a result, individuals living in small towns build their identity around their family and personal success more than their career.

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When talking to clients or even potential clients, they found that the values differed between clients in Dallas and those in Tyler. Clients in Dallas were more focused on how the financial advisors could help their professional and individual objectives. These clients were more focused on how the proposed financial plan would help their plans for the future, their net worth, and their retirement plan. However clients in Tyler were more focused on how the financial advisors could help their professional and family objectives. These clients were more focused on how the proposed financial planning would help their wife, kids, grandkids, and other future generations.

In Tyler “people are more others focused” while in Dallas “people are more [self] focused”. Subject B believed that America is becoming more and more individualistic and self focused. However he believed Tyler to be one of the few remaining “little pockets” where the community is “very benevolent” and “very charitable”.

“There is some fundraising event opportunities going on literally every weekend of the year. People like to get involved here in those causes. There just tends to be more of a [focus on] overall community health. How do we better this area for the future generations coming after us? People here are more legacy driven.”

Subject B

Aside from the cultural differences, both associates also found there were different expectations for the type of car they were expected to drive. Subject A drove a Toyota Camry when he moved from Dallas to Tyler two years ago, now he drives a Lexus. Subject B drove an Infinity M37 when he moved from Dallas to Tyler two years ago, now he drives a Lexus ES300H.

Before when they lived in Dallas, the type of car one drove didn’t matter. Everyone parked in a parking garage, and Dallas is so big it was very unlikely that you would be driving next to someone you knew during rush hour traffic. Whereas in Tyler, everyone parks in a lot in front of the building where everyone can see they type of car you drive. Additionally, Tyler is so small that you are highly likely to see someone you know driving beside you at any given time.

Neither of them noticed a distinct difference in how they were treated after purchasing a luxury car. However they both felt there was an underlying expectation to drive such a car in order to be perceived as successful. Subject A noticed that a business colleague held him at a higher regard as a result of his purchase. While attending Leadership Tyler, a nonprofit organization that provides leadership training for local businessmen and women, Subject A had an interesting interaction with his fellow peers.

“… I was meeting [a group of] them at Andy’s and I pulled up in the Lexus, and they made a comment about it and I’ve actually gotten a few clients out of [that moment]. And this one guy publically said, ‘Hey we’ve got three financial advisors in our Leadership Tyler class and you know what I’m just going to be honest here. If I’m going to work with anyone in the finance world, I’m gonna work with [Subject A]. Because he’s got a nice car and a nice suit, obviously very successful. It is what it is.’ He just said out loud that, you just look like you’re successful and I would want to work with someone like that. That’s been the most overt comment anyone’s ever made.”

Subject A

Even though neither associates recognized the change in behavior, there was still a recognizable difference in how they were treated. How Subject A’s colleagues responded to his vehicle reveals their perception of his monetary success. Leadership Tyler enrolls those who are already on the path of success that wish to further that success by learning crucial leadership skills. Even though the class knew this, there was an evident draw to Subject A as a consultant after seeing the type of car he drove. Even though there were three financial advisors in the class, Subject A was perceived as the most successful because of his attire and vehicle. After one of his classmates verbally distinguished Subject A as successful, Subject A gained a new clients.

V. CONCLUSION

The experience of these two financial advisors depicts the regional and business culture differences between Dallas and Tyler. As a result of the regional variances, community atmosphere, and difference in business cultures, Tyler and Dallas do not communicate on the same level. Surprisingly, in the smaller town of Tyler, greater emphasis is placed on personal and career achievements as they relate to an individual’s perceived level of success. Such findings are important for business people who reach across state subcultures to communicate with varying client bases. One person who is successful in one environment should not expect immediate success upon entering a new market without first considering the cultural differences and taking steps to adapt accordingly. Unexpectedly, but importantly, one must strive to develop strong intercultural and interpersonal communication competence when stepping across subcultural borders, borders that are after not marked clearly on a map.
REFERENCES


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Impact of pastoralism on the Afzelia Africana Natural regeneration in the Protected Forest of Kouandé.

Aboudou Yacoubou Mama Aboudou Ramanou, Vodounou Jean Bosco Kpatindé, Abdoulaye Abdou-Ramane

ABSTRACT: Anthropic activities have a share in both the environment degradation and disappearance of some tree species. The here research work on the protected forest of Kouandé which is a transit and a welcoming area for transhumant people, aims at apprehending the impact of pastoral exploitation on the Afzelia africana regeneration, and proposing measures for its conservation. Dendrometrical data have been collected from 62 circular 17.84m-ray plates. The obtained results have shown three types of habitats sheltering the species: farms, fallows and savannahs. Comparison of the density has indicated that no significant difference at a 5% sill. The maximal value of the of the density is found in the savannahs, and represents 20.60 trees per hectare land while the minimal value of the density is 10.38 trees per hectare land and is found in the fallows. Also, there is no significant difference between the pruning rates. This is 30.20 stems density for 50% rate, and 20.05 stems for the exploitation rate superior to 50%. Structure of the Afzelia Africana populations in the Kouandé protected forest shows a distribution in diameter scales in the form of bell with dominance of class 35 and 45 cm individuals. The risk of its disappearance is foreseeable, which urges an integral protection and conservation.

Keywords: Kouandé, impacts, pastoral exploitation, regeneration, Afzelia africana.

I. INTRODUCTION

Biologic diversity in the township of Kouandé has yearly faced deep modifications due to anthropic actions. In 2012, the farmed lands were about 2367.25 ha, and the livestock were about 7539 animals, which is exclusive of the many domestic and trans-boardering transhumant cattle (ACDD, 2012). The bouvreuil breeding system specifically based on transhumance has caused overgrazing and anarchic shrubs pruning. The current state of the development and the pastoral use of Afzelia africana in the North of Cameroon show that this tree is one of the most used shrubs in the region, which accounts for the high interest set on it (Onana and Devineau, 2002). Over-exploiting that tree, together with the climate harshness and the bush fire, has affected the species regeneration possibilities.

Inventory of the vegetation, associated with a pastoral enquiry with the breeders in the Toui-Kilde, has permitted to display the grazing situation in that forest. The total land concerned with cattle grazing has covers about 21,380 ha land, which represents 43% of the whole forest (PGRN, 1996). As indicated by GTZ quoted by Roufai (1996), the nearby land of the Okpara River are characterized by “very good quality pasturage with high breeding development possibilities, which marks a transit and welcoming land for transhumant”. Over-pasturage effects are clearly noticeable in the dry season. Ligneous forage trees like Afzelia africana have frequently been pruned by those breeders during that period. Using ligneous forage, at the end of the dry season, can represent up to 75% of the whole time devoted to pasturage Tézenas (1994) said that the average contribution of the ligneous is 40% during the drought in the North of Burkina Faso. According to the findings by Meurer et al. (1991), Schlechet and Sidi (1994), there is an over-exploitation of the ligneous forages up to 193% during the dry season. This means that forage trees are pruned at least once during this period, and 93% of them are pruned twice. Such results had already been announced by Sinsin and al. (2001) who have observed destruction of 100% for the africana in the regions of the Monts-Kouffé. To lessen the overuse of protected forest by nearby populations, the Benin government in 2008 through notice n°13/PR/SG/REL on April 9th, 2008, has recommended the then Minister in charge of the Environment...
and the Protection of the Nature to organize frequent patrols inside the protected forests in order to reinforce their protection, and to arrest, reprimand and send out every individuals that illegally take hold of the land there. Let’s remind that in Benin, 280 tree species are under threat of disappearance, 90% of which representing a high extension probability according to UICN(2011) and 10% being on UICN’s red list, namely Afzelia Africana. In the Kouandé protected forest, like in all forests in Benin, this species is highly under threat due to the pressure done on it. Facing these various facts, two fundamental questions come out:

✓ What is the scale of Afzelia africana exploitation by people in the protected forest of Kouandé?
✓ What is the impact of Afzelia africana exploitation by the populations on the species’ natural regeneration density in the protected forest of Kouandé?

Answers to these questions accounts for the choice of the present research topic: “The impact of pastoral exploitation of Afzelia Africana in the protected forest of Kouandé”. The global object of this study is to analyze the impact of the exploitation of Afzelia Africana tree parts for pastoral needs, on the natural regeneration of that species in the natural ecosystems of the protected forest of Kouandé. Specifically, this study aims at: (i) comparing the density of the natural regeneration of Afzelia africana in different habitats of the species in the protected forest of Kouandé; (ii) testing the exploitation impacts of the Afzelia Africana tree parts on the natural regeneration density in the protected forest of Kouandé; (iii) analyzing the dynamic of the Afzelia Africana population in the protected forest of Kouandé. In terms of hypothesis, we have the following:

- The natural regeneration density of the Afzelia Africana species varies from one habitat to the other in the protected forest of Kouandé;
- The exploitation rate of the Afzelia africana tree parts has a negative influence over the natural regeneration of the species in the protected forest of Kouandé;
- The Afzelia africana population dynamic is regressive in the protected forest of Kouandé.

**II. STUDY AREA**

Spread over a land area of about 4,560 ha, the protected forest of Kouandé is situated in the North of the township of Kouandé (in the Atacora department), between 10°17’ and 10°25’ North latitude, and 1°41’ and 1°39’ East longitude. It is limited to the North by the Fô-Tancéand Danri villages, to the South by the Kpessourou village, to the South-West by the villages Oroukayoand Ganikpérou villages, to the West by the Niariiséravillage and to the East by the Kouandé city (figure 1).

The climate in the region is of a continental Sudanese type, characterized a unimodal hydric regime. The period of time going from October to March corresponds to the dry season (P < ETP/2) when vegetal species are submitted to a hydric stress. This dry period ends by mi-May with a monthly waterfall superior to l’ETP/2; it is the period for active vegetation. From May to September when P > ETP, vegetal species benefit from hydric resources again. Annual average rainfall are set between 900 and 1100 mm (ASECNA, 2010); the rain maximal height is observed in the months of July, August and September. This is a period for planting trees and/or restoring the ecosystem. The average temperature is around 27°C. The highest temperatures are obtained in the months of March and April, with a maximum 37°C, while the minimal is 15°C, and is observed between from December to January. Temperature can reach 10°C in the region, mainly during the harmattan.

The relative humidity of the air in the area is high enough, mainly in the period going from May to September. This varies from 26.2 to 82.3%. Insolation varies from 125 to 275 hours. The dominant winds generally go from South-West to North-East, while the harmattan blows from December to January and at time to February to the North-East. The potential evapotranspiration is close to 1850 mm and the hydric deficit is striking during the dry season.

The protected forest of Kouandé is set in a Sudanese zone where vegetation grow under the influence of anthropic actions, often characterized by non-adapted practices (clearing the land for farm, overexploitation of ligneous natural resources, over grazing, late bush fire, etc…).)

**The following species can be found in that forest:**
- forest gallery dominated by Afzelia africana and Terminalia spp;
- clear forest and wooded savannah, dominated by Pterocarpus erinaceus, Vitellaria paradoxa and Burkea africana;
- wooded and shrub savannah dominated by Vitellaria paradoxa, Parkia biglobosa and Terminalia macroptera and Glaucescens;
- cashew and teck trees and;
- mosaic cultures and fallows.

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The township of Kouandé is situated in the Atacora channel, the most important mountain block of Benin. This channel stretches from East to West over 40 to 46 km wide reaching 658 m height in Alédjo. The peak in the township of Kouandé is at Kampuya (641 m) in the North-West of the protected forest, in the district of Fô-Tancé. The lowest point (320 m) is in the North-East, in the Mékrou valley. Land is made of quartzite and granites, geisha, migmatisand micaschists.

According to classification by Dubroeucq (1977), the main sol types in the Kouande channel block are essentially tropical ferruginous soils such as:
- less progressed soils, almost ferruginous, laid over atacorian quartzitands and micaschists highly dominant;
- tropical ferruginous soils, slightly clay washed and sesquioxyde washed, hardly fertile;
- tropical Geomorphology and hydrography have ferruginous soils hardened washed, set over kaolinical land made of Kouandé, an ecologically fragile township through its position over an uneven slopebasin.

The hydrographic regime is less dense, with a permanent flowing river (Tikoundarou), but this is submitted to non-adapted cultures, which provokes a continuous sanding. This is a saxicolous forest, with trees hardly reaching 7m high. The protected forest of Kouandé is situated over a very uneven relief with a peak at a mountain zone belonging to the Atacora channel (641 m altitude). The country’s land surface is 50 % made of hills while flat lands and valleys hold respectively 34.1 and 15.91% of the land.

Auto-evaluation of the fauna during the past twenty years with the actors and the results from the PGFTR numbering (2010), have revealed a high regression of the wild fauna, and a loss of the fauna diversity due poaching, bush fire, agriculture based on burning lands, illegal forest exploitation and transhumance. The higher the demand is, the more striking the destruction rhythm is. The whole forest is referred to for grazing. Ligneous forages like Afzelia africana, Pterocarpus erinaceus, Khaya senegalensis and Vernoniacolorataare systematically destroyed by breeders on their way. Herbaceous stratus is covered by species of good forage value such as: Andropogon gayanus, Brachiariafalcifera, Andropogonchinesis, Hyparrheniasubpluimosa, Hyparrheniainvolucrata, Andropogonschirensis, Pennisetumpolystachion, Loundetia simplex, Tephrosiapedicellata, Stylosanteserecta. All these pastoral resources have favored transhumant breeders’ rushing into the protected forest of Kouandé.

The Tikoudarou River constitutes the only permanent river crossing the forest block. Also, there are water points for pastoral use in the surrounding area. These are strongly referred to by breeders; these include the Pessourouand Sowa (Sékogourou) water points.

**Research methodology**
The collection of data has been done through documentary research and observation.

**Documentary research**
This is concerned with an approach consisting in the synthesis of knowledge based on the topic, nationwide as well as on the international scale through existing documents. In this context, documentation centers, libraries, appropriate institutions, internet sites have been covered. The kind of data collected concern specific methodological information about the Afzelia Africana species.
**Data collection materials and tools**

The materials used on the field for data collection include:
- Some vegetation maps about the Kouandé protected forest, compasses and a GPS for locating survey points;
- Aodendrometer and a clinometer, two ribands of 1.5m and 3m, and forestry compasses for the dendrométric measures;
- A claw and some pieces of chalk, some bomb paint and cords for identifying the placets;
- Some data collection forms, and a pen for taking notes;
- Gamblits, machetes and sickles for opening layons;
- A numerical photographic device for taking pictures;
- A good functioning state motorbike for transportation.

**Sampling**

The data collection system has been set up following a random sampling. The sampling corresponds to a fraction population of all trees concerned. The most often sampling units or of defined surface placets are: the square, the rectangle, the ribbon and the circle. The most favorable form of a placet is the one which, with an equal area, represents the smaller perimeter scale so that the number of trees on the limit of the placet is the most reduced possible. This condition is fully met by the circular form, which in addition allows a rapid delimitation. The placeaux have a 17.84m ray dimension. In all, sixty-two 1000 m² circular placeaux have been installed and recorded using a GPS. All the Afzelia africana trees found on each placeau have been counted and measured.

**Methods of data collection**

The collection of data has followed the specific objective method. This has consisted in:

- Comparing the Afzelia africana populations’ natural regeneration density in the different habitats of the species in the protected forest of de Kouandé. Some 17.84m ray (1000 m²) placeaux have been placed around each stem tree inside the placeaux in the farms, the fallows and the savannahs. The stem tree is considered as the placeau center. Inside each placeau, all Afzelia africana wood fragments have been counted.
- Testing the organ exploitation impacts over the natural regeneration density of the Afzelia africana populations in the protected forest of Kouandé; each Afzelia Africana tree branches cutting rate, its back removing rate and its natural wounding rate have been evaluated. As for branches cutting, all main branches have been considered. Then, all those branches have been counted as well as the relation between cut and non-cut branches. This has allowed determining the branches cutting rate. As for the tree back removing and the trunks natural wounds, the truck’s perimeter has been calculated. Then, the wounded area has been measured before a ratio is done to find out the natural tree back wound’s rate.
- Analyzing the Afzelia africana population dynamic in the protected forest of Kouandé, the number of Afzelia africana trees inside each placeau has been evaluated. The diameter of the trees has been measured 1.30m from the soil using forestry compasses inside the different placeaux for the characterization of the demographic structure of Afzelia Africana spread through the different habitats. The diametrical structure and the individuals’ density calculation (adults and regeneration) have allowed analyzing the Afzelia africana populations’ dynamic. Figure 2 shows the setting of the two different study placeaux in the protected forest of Kouandé.

![Figure 2: Location of the Afzelia Africana species](image)

**Data analysis methods**

Data analysis has also been done following the specific objective method. This has allowed verifying the corresponding hypothesis.
- To test that Afzelia africana populations’ natural regeneration density varies from one habitat to the other in the protected forest of Kouandé, the «t» test of Student has been used up to 5% and this has helped compare the averages of the natural density per habitat. If the obtained probability is inferior to 5%, the difference is said to be significant; when the probability value is inferior to 1% it is said to be highly significant. When this is superior to 5%, it is concluded that there is no difference between the observed averages.

- To justify that the Afzelia africana organ exploitation rate has a negative influence its natural regeneration in the protected forest of Kouandé, two modalities have been defined for the exploitation factors’ rate (branches cutting, tree back removing and natural wounds): modality1- "exploitation rate inferior to 50 % and modality 2- exploitation rate superior or equal to 50 %). The normality, homogeneity test, and the «t» test of Student have been used up to 5%, which has allowed comparing the natural regeneration density averages per type and per exploitation rate. If the obtained probability is inferior to 5%, the difference is said to be significant; when this is inferior to 1% it is said to be highly significant. When the probability value is superior to 5%, it is concluded that there is no difference between the observed averages.

Dynamic of the Afzelia africana population is regressive in the protected forest of Kouandé. The study of that dynamic is done from trees diameter class distribution. The Weibull three parameters distribution (Glèlè-Kaka and al, 2006) has been used. This Weibull adjustment has permitted to define dynamic evolution of the vegetal populations through the form of the curves. The ‘inverted J’ form shows an progressive dynamic where individuals of the 15cm class are predominant. Here, there is disturbance and the population has to be reconstituted, and the dynamic is progressive when there is no disturbance. The ‘bell’ form indicates an aging population with predominance of higher diameter class trees. This population is meant de disappear. The natural regeneration density has to be calculated in these kinds of populations, and determinants factors have to be identified in order to find appropriate solutions.

**Findings and discussion**

At the end of the field inquiry on the impact of the pastoral exploitation over Afzelia africana natural regeneration, many parameters have been measured. They include i) the Afzelia africana populations’ natural regeneration density which varies from one habitat to the other in the protected forest of Kouandé and ii) the Afzelia africana organs exploitation rate which influences negatively the natural regeneration of the species in the protected forest of Kouandé. iii) The Afzelia africana populations’ dynamic which is regressive in the protected forest of Kouandé. Study of the Afzelia africana population dynamic in the protected forest of Kouandé has been carried out through three distributions per tree diameter class. The Weibull three parameter distributions (Glèlè-Kaka and al, 2006) has been used.

**Population and economic activities**

The surrounding population of the protected forest is evaluated to about 57,832 inhabitants with 50.24% women and 49.76% men, according to the last census in 2013 (INSAE, RGPH4). Figure 3 illustrates the protected forest’s surrounding populations’ distribution per gender.

**Figure 3**: Populations distribution based on gender, around the Kouandé protected forest

**Source**: INSAE, RGPH4

The number of people living around the protected forest was evaluated to 20,796, which represented 49.78% of women and 50.22% of men according to the 2002 census (INSAE, RGPH4). Comparatively to the 2013 census indicated above, the population there has grown up to 139.04%.

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Inter-ethnic and religious relations

Three large sociocultural groups are dominant in the social setting of the Kouandé protected forest villages. They include the Baatombu (46.3%), the Natimba (24%) and the Fulani (17.9%). The rest of people are the Yom, the Lokpa, the Dendi, the Bétamaribi, the Yorouba, the Adjou, the Fon and others. These ethnic groups are related to the ones by history and by the solidarity spirit which they have been developing through the economic activities (PAPFK, 2013).

Those different peoples practice many religions of which we have Islam (38.5%) and traditional religions (30.2%). Then come Catholicism (14.8%), and Protestantism (1%) and others (15.6%), (PAPFK, 2013).

Economic Activities

Three main economic activities are practiced in the study area. They include agriculture, breeding and fishing.

Agriculture constitutes the principal activity of the Kouandé protected forest surrounding populations. This is practiced in majority by the Baatombu, the Natimba but also by the sedentary Fulani communities. It is a pluvial and annual agriculture, characterized by low yields due to shortage of farming lands, lowering of soil fertility, lack of integrated agriculture, the short length of fallows and soil compactness due to bouvreuil’s actions. The main cultures are maize, yams and sorghum. The other cultures include mil, soy, cashewnuts and cassava. The cultural techniques are based on maize-mil, yams-mil and cassava niebe associations. Cotton is not grown inside the protected forest. Cashewnut plantations are taking extensive proportions; they often set up in combination with annual cultures for the two or three first years. According to table 1, the total number of bovines is 7,539 ha, which represents 64.8% farm lands (PAPFK, 2013).

Breeding in that zone is essentially based on traditional systems. Most households dispose of small breeding made of ovine, caprine, pocks and poultry. Bovine breeding is essentially practiced by the sedentary Fulani. The sedentary cattle is mainly concentrated in the Danri, Pessourou and Boré areas. Table I presents the number of cows in the cattle each of the forest surrounding villages.

Table I: Bovine cattle population around the protected forest of Kouandé

<table>
<thead>
<tr>
<th>Surrounding villages</th>
<th>Bovine number</th>
<th>Ovine number</th>
<th>Caprine number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pessourou</td>
<td>803</td>
<td>440</td>
<td>182</td>
</tr>
<tr>
<td>Boré</td>
<td>605</td>
<td>550</td>
<td>726</td>
</tr>
<tr>
<td>Tikou</td>
<td>394</td>
<td>495</td>
<td>847</td>
</tr>
<tr>
<td>Fô-Tancé &amp; Danri</td>
<td>1055</td>
<td>2695</td>
<td>1053</td>
</tr>
<tr>
<td>Niarisérou</td>
<td>86</td>
<td>81</td>
<td>48</td>
</tr>
<tr>
<td>Ganikpérou</td>
<td>101</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Orou-Kayo</td>
<td>502</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Kouandé</td>
<td>253</td>
<td>3300</td>
<td>7744</td>
</tr>
<tr>
<td>Sékogourou</td>
<td>1870</td>
<td>825</td>
<td>726</td>
</tr>
<tr>
<td>Doh et Sayakrou</td>
<td>1870</td>
<td>4400</td>
<td>3025</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7539</strong></td>
<td><strong>12786</strong></td>
<td><strong>14351</strong></td>
</tr>
</tbody>
</table>

Sources: APIC-PGFR 2011 and Breeding Services, 2014.

According to table 1, the total number of bovines is 7,539, the number of ovine is 12,786 and the number of caprine is 14,351. These data reveal that the caprine are more important in number, followed by ovine and then the bovines. These observations show that the caprine are concentrated in Doh and Sayakou while the bovines are concentrated in Sékogourou.

Influence of the habitat type on the Afzelia Africana natural regeneration

The natural regeneration of the Afzelia Africana populations has been taken into account in the different types of habitats in the protected forest of Kouandé. These habitats include the forest natural ecosystems (savannah and saxicicous savannah) and the agro-ecosystems (farms and fallows). Table II shows the average error types of the Afzelia Africana natural regeneration density in the different habitats of Kouandé protected forest.

Table II: Average and error types of Afzelia africana annual regeneration density in the different habitats of the protected forest of Kouandé.

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Averages</th>
<th>Error type</th>
<th>Probability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Champs</td>
<td>20.33</td>
<td>1.05</td>
<td>0.53</td>
</tr>
<tr>
<td>Jachères</td>
<td>10</td>
<td>0.62</td>
<td></td>
</tr>
<tr>
<td>Savanes</td>
<td>20.60</td>
<td>0.44</td>
<td></td>
</tr>
<tr>
<td>Savanes saxicoles</td>
<td>10.38</td>
<td>1.15</td>
<td></td>
</tr>
</tbody>
</table>

Source: field inquiry dada AGUESSI, 2015

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Comparing the Afzelia Africana natural regeneration density in the different existing habitat types using Student’s statistic test has shown that there is no significant difference up to 5% for the natural regeneration density. The results are presented in table 3. Indeed, the resulting probability is equal to 0.53 % (then superior to 5 %). Nonetheless, the highest density is recorded in the savannah (20.60 stems/ha) followed by the one obtained from farms (20.33 stems/ha). The lowest regeneration density values are obtained in the fallows and the saxicolous savannah (respectively 10 stems/ha and 10.38 stems/ha).

Impacts of the Afzelia Africana exploitation on the species natural regeneration

In order to apprehend the effects of the Afzelia africana exploitation on the species natural regeneration, the exploitation rate has been evaluated for each tree stem. This has permitted to analyze the impact of that practice on the species natural regeneration which is already set in a naturally non-favorable area. Exploitations that have been taken into account include branches cutting, the tree back removing and the trunk’s natural wounds. Picture 1 shows a Fulani found in a flagrant misdemeanor of cutting branches from a Afzelia Africana tree to feed his cows.

The average density of the natural regeneration is 20.34 ± 0.38 stems/tree/ha. For isolated Afzelia africana trees, the branches cutting, tree back removing and the natural wound rate has been evaluated following two modes: inferior to 50 % and superior to 50 %. There is no significant difference up to 5 % for the regeneration density of these two modes concerning the branches cutting and the tree back removing (p respectively equal to 0.11 % and 0.74 %). Nevertheless, as for the branches cutting, when the exploitation rate is inferior to 50%, the natural regeneration density is 30.20 ± 0.96 stems/tree/ha.

Table III presents the averages and errors types of the Afzelia africana natural regeneration density following exploitation parameters together with their rates.

<table>
<thead>
<tr>
<th>Dependent variables</th>
<th>Independent variables</th>
<th>Averages</th>
<th>Error type</th>
<th>Probabilité</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regeneration density (Nbr stems/tree/ha)</td>
<td>respective pruning rates (&gt; 50% et ≤ 50%)</td>
<td>30.20</td>
<td>0.96</td>
<td>0.11</td>
</tr>
<tr>
<td></td>
<td>20.05</td>
<td>0.39</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>respective tree back removing rate (&gt; 50% et ≤ 50%)</td>
<td>20.61</td>
<td>0.5</td>
<td>0.74</td>
</tr>
<tr>
<td></td>
<td>10.92</td>
<td>0.57</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Respective natural wounds rate (&gt; 50% et ≤ 50%)</td>
<td>20.90</td>
<td>0.49</td>
<td>0.001</td>
</tr>
<tr>
<td></td>
<td>10.65</td>
<td>0.58</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Field inquiry data, Aguessi 2015

When these rates exceed 50%, this density falls and has the following value: 20.05 ± 0.39 stems/tree/ha. As for the tree back removing, the regeneration density falls when the exploitation rate grows. Then, below 50 % of tree back removing regeneration density is 20.61 ± 0.5 stems/tree/ha and this reaches 10.92 ± 0.57 stems/tree/ha for more than 50 % of exploitation.

As for the Afzelia africana natural wound, the difference is significant up to 5 % and the obtained p probability is equal to 0.001 %. When the Afzelia africana natural wound has rate inferior to 50 %, the natural regeneration density has the value 20.90 ± 0.49 stems/tree/ha. When its rate is superior to 50 % this becomes weak and its value is 10.65 ± 0.58 stems/tree/ha.
Table IV presents the Afzelia africana natural regeneration density average error types following evolution of diameter class center of the trees studied inside the protected forest of Kouandé.

**Table IV:** Averages and error type of the Afzelia africana natural regeneration density based on evolution of the diameters class center of the trees studied stool in the Kouande protected forest

<table>
<thead>
<tr>
<th>Dependent variables</th>
<th>independent variables</th>
<th>Average</th>
<th>Error type</th>
<th>Probability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regeneration density (Nbr of stem/tree)</td>
<td>25 cm</td>
<td>10,10</td>
<td>0,76</td>
<td>0,006</td>
</tr>
<tr>
<td></td>
<td>35 cm</td>
<td>10,94</td>
<td>0,62</td>
<td></td>
</tr>
<tr>
<td></td>
<td>45 cm</td>
<td>20,40</td>
<td>0,84</td>
<td></td>
</tr>
<tr>
<td></td>
<td>55 cm et plus</td>
<td>30,93</td>
<td>0,79</td>
<td></td>
</tr>
</tbody>
</table>

**Source:** Field inquiry data, Aguessi 2015

Other factors typical to the Afzelia africana trees can also act on the regeneration dynamic. This is concerned with the structural parameters such as the tree diameter, the trunk diameter. Here the ddh diameter of the trees are considered, and there is a highly significant difference up to 5% (p=0.006) for the Afzelia Africana natural regeneration density per tree per hectare. Then, the average density of the natural regeneration decreases with the tree ddh. At the level of the diameter class center 25 cm and 35 cm, this density is respectively equal to 10.10 ± 0.76 stem/tree/ha and 10.94 ± 0.62 stems/tree/ha. This value of the obtained density at level of the 25 cm and diameter 35 cm class center is doubled when it is concerned with the 45 cm diameter class center, and tripled from the 55 cm diameter class center and more (respectively 20.40 ± 0.84 stem/tree/ha and 30.93 ± 0.79 stem/tree/ha).

**Afzelia africana populations dynamic in the protected forest of Kouandé**

Afzelia africana populations’ individuals density in the protected forest of Kouandé with a diameter ≥ 10 cm is 6 trees/ha. The best adjustment of this Weibull distribution of individuals per diameter class has three parameters. Figure 4 presents the Afzelia africana individuals’ distribution per diameter class in the protected forest of Kouandé.

![Figure 4: Distribution of Afzelia africana individuals based on diameters class](source)

**Source:** Field inquiry data, AGUESSI 2015.

The individuals’ diameter class distribution of those populations presents a curve in the form of a “bell”. The form parameter is set between 1 and 3.6, precisely 2.62. It is an asymmetrical positive distribution positive centered on individuals belonging to diameter class centers 35 and 45 cm.

**III. DISCUSSION**

The obtained results through Student’s comparison « t » test show that the habitats type has an influence on the Afzelia africana natural regeneration density. These differences can be due to the habitat type from a pedological view point (nature of the soil) or to humans’ access to ligneous resources. According to pedology, the soil at the level of the farms, the fallows and the savannahs is favorable to germination and to the survival of fragments from the vegetal species’ natural regeneration, contrarily to the soil of those saxicolous savannahs where there is much gravel that could halt germination. On the soil of those saxicolous savannahs, Afzelia Africana grains can fall over the gravels where they will stay longer and then lose their germination power. Other grains can germinate but will not survive. As for humans’ access, fallows and savannahs are easily accessible for pasturage, contrarily to farms where there remain cultures that bovines must not destroy, and the saxicolous savannahs that are hardly accessible. In the areas accessible to the bovines, there are natural regeneration plants that will be grazed or stepped over; and although these habitats favor germination the natural regeneration density will always be weak. Houéhanou, (2014) made the same remarks about the

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Impact Of pastoralism on The Afzelia Africana Natural regeneration In The Protected...

Bombaxcostatum natural regeneration in the Borgou, Alibori and Atacora departments, in a Sudanese zone where regeneration of the B. costatum is under the double effect of grazing and fragments and gaulis’ stepping over by the bovines. Also, the obtained results about the Afzelia africana natural regeneration are probably due to the fact that all the air part of the species is all the time fully exploited as forage ligneous. This does not permit flourishing anymore, and as a consequence fruit and grain germination are not possible.

The different obtained results as for the Afzelia africana exploitation have indicated a negative impact on the species natural regeneration. This impact becomes striking when the exploitation rate increases and goes beyond 50%. The same observations are made on isolated Pentadesmabutyracea trees in Sudanese and Sudano-guinean zones in Benin (Zinsou, 2014). According to that author, the exploitation level is one of the factors that weaken the Pentadesmabutyracea fruit production. And if fruit production is affected, it is clear that natural regeneration will be very weak, since without grains, no new vegetation will grow, and this is natural. The cutting of tree branches no more allow the Afzelia Africana trees to have fruits, and then, the natural regeneration is handicapped. In the study area, it is hard that trees produce fruits. It is those branches that are let which produce fruits. You have to reach the peak of the mountain where the cattle do not go before you can have fruits on some trees. When those fruits are mature, some grains fall up to the mountain side. These grains will germinate later during the rainy season. But here again, those young plants may not have opportunity to grow because of weeding, and foot stepping, and or grazing by the bovines.

If individually, these different types of exploitation have a negative impact on the natural regeneration dynamic, the effects of the latter would be more striking if they were combined, while the area is already naturally non favorable to the dynamic of the vegetal.

Afzelia africana individuals’ diameter also has an impact on the regeneration density. Indeed, the natural regeneration varies according to the diameter class center. These observations could be due to the fact that the 25 cm and 35 cm diameter class centers represent the “adults 1” classes which have started fruits production, and as such the annual regeneration in their area goes along with their average productivity. When these trees reach “adult 2” stage, their fruit productivity will increase, and consequently the natural regeneration density in their area will also be important.

The population dynamic of a vegetal species goes through the annual regeneration density, survival of this natural regeneration and the proportion of individuals of small diameter classes (Ouédraogo, 2008). According to this author, the paces in “J” and “bell” of the diameter class distribution histograms mean young, aging, and/or disturbed populations. The aging state of the trees is shown by weak proportion of small class diameter individuals. (Ouédraogo, 2008). This is the case with the Afzelia africana populations in the protected forest of Kouandé that have a pace in the form of a “bell”. These populations are very aging because they are dominated by very aged trees. Younger trees of 15 cm and 25 cm diameter class centers which are meant to replace the aging class are in weak proportion. Also, the regeneration density is weak in these populations (20.34 ± 0.38 stems/trees/ha).

The results are due to the fact that the anthropic pressure on this species is strong (forage ligneous very important for bovine breeders). These breeders take care of existing trees and they no more think of helping renew these tree populations. They would cut branches from trees that are starting flourishing towards the end of the dry season. These trees will then be incapable of flourishing let alone producing fruits. When new leaves come, those breeders will come again to take them for the bovine. Such trees henceforth belong to whole category of ligneous forage, and will never produce fruits again the rest of their life, until woodworkers come to cut them and remove the timber. These Afzelia africana population from the protected forest of Kouandé are meant to be extinguished if no solution is found soon.

**IV. CONCLUSION**

This research work highlights the influence of Afzelia africana exploitation, which affects the species’ natural regeneration. Anthropic pressures (cutting branches, removing the tree back) have negative impacts on the species, which does not guarantee its progression dynamic. Indeed, the protected forest of Kouandé is situated in the Sudanese zone where climate does not allow a good vegetation development. At the same time, the breeding of bovine is highly developed, which increases the needs in ligneous forage resources. Likewise, the management modes of natural vegetal species in the protected forest of Kouandé are based on no resource conservation norms. As such ecosystems’ degradation in that forest is daily worsened under the influence of anthropic activities. People there are mostly peasants and the existing exploitation systems in the study area do not favor regeneration of the natural resources. The progressive extension of anthropic occupation units explains the on-going deforestation prejudicial to the environment. This causes a regressive evolution of the vegetal surface with as consequence, the reduction of the vegetal biodiversity.

In the present research work, the adult and Afzelia africana natural regeneration density is weak. Also, existing populations are aging and the anthropic pressure still goes on. If this continues, and if the species’ exploitation rhythm remains constant, form now to five or ten year time, the species will disappear from the

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area. It is then urgent that strong measures be taken for a sustainable conservation of the natural resources in general, and the ligneous forage in particular, since conservation and sustainable management of natural resources have become important components in the process of community development.

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**BIBLIOGRAPHY**


[9]. Houinato M., 2001;Phytosociologie et production des formations végétales pâturées dans la région des Monts Kouffé; Abomey-Calavi, Bénin, 73 p.


[18]. SavassaA, 2013;Etat de conservation d’afzelia africana dans la forêt classée de Gougounou en zone soudanienne au nord –Bénin, 123 P.

[19]. Schleich V. & A. Sidi, 1994, Détermination de la capacité de charge animale supportable par la région des monts couffé à partir des ligneux fourragers, 97 P.


Victim Protection of Human Trafficking in Indonesia According to the International Law

Iin Karita Sakharina

ABSTRACT: Human trafficking crimes became part of organized crime, which is based to one of the crime to the development and crime to the social welfare which need to be much concern both national and international. It is making sense, due to the scope and wide range dimension so can be classified as organized crime. The protection of victim from human trafficking actually is part of the human rights problem and the rights of victim is un separate part with the human rights concept either, so it is need to be protect while in Indonesia, the victim protection of human trafficking has managed into the Indonesian Criminal Law Constitution and also the Law of Number 21 Year 2007 about the Suppression of Human Trafficking.

Keywords: human trafficking, social welfare, human rights

1. INTRODUCTION

Many of crimes in new dimension has appereanced lately, crime is always developing as well as crime in human trafficking. According to its crimes, in 1995 on United Nation (UN) conference about the crime prevention and the treatment of offers which was held in Cairo, had been discussion sort of act to combat transnational crime, terrorism and violence against women. Connected to it as well with combat transnational crime, in 2000 of Palermo Italia was held the UN Conference about Transnational Organized Crime, included the human trafficking specially women and children trafficking.

Human trafficking is became the Activities of Transnational Criminal Organizations beside the other crimes such as the drug trafficking industry, smuggling of illegal migrants, arms trafficking, trafficking in nuclear material, transnational criminal organizations and terrorism, trafficking in body parts, theft and smuggling of vehicles, money laundering (Un document No. E/CONF.88/2, 17-22) [1]. The international society has concerned to this such of crimes due to the implicated which is can be insidious, and can effect to all dimension or field whether to the security and national or international stability and became an frontal attack to the political authority and integrity of state. Apart from those mention, also as a trapped and slaved for some groups of society like women and children due to the illegal work like prostitution.

The main purposed of its crime is to gain more advantage either for the individual interest or some people whom organized it. Those money will be used by the perpetrator to defraying the other crimes (Ambassador Wendy Chamberlin) [2]. Human Trafficking crimes became part of organized crime, which is based to one of the crime to the development and crime to the social welfare which need to be much concern both national and international. It is making sense, due to the scope and wide range dimension so can be classified as organized crime (Article 2 point 1 Article Proposal and Contributions Received from Governments, stated General Assembly, A/AC.254/5 19 December 1998) [3], white-collar crime, corporate crime, dan transnational crime. Even by used of the technology like cyber crime.

Based on those characteristic, so the impact and victim arise also are huge to the development and social welfare. According to it, in United Nations Office on Drugs and Crime (see http://www.unodc.org/unodc/en/trafficking_human_beings.html) [4], stated that from the countryside of Himalaya up to East Europe, specifically for women and children are tempted with the job prospect together with high payment whether as a servant in house, waitress or labour. Those by sales found the women and children by cheated them or lying information some of them trough advertising. They had been forced to work as prostitute.

The fact also shown that Indonesia also has found the trafficking. The effort to abolish the slave and human trafficking globally and specially in Indonesia actually has had begun since 1854 when the parlement (king) and government of Netherland existed the law number 2 year 1855 with tittle Regeringreglement (RR) which was in article 169 stated that last of January 1, 1860 slavery in Hindia Netherland must be totally

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abolishment. Although the threat of punishment had arranged into the Wetbook van starrecth or KUHP article 297 and 298, but like it used to be not followed by the law enforcement.

In the earlier of independence era, the hidden activity was still going on, even its crime became the global crime and shown significant increased together with the increased of transportation, the high impact of technology in communication, electronic. In 1997 UN approximated the offender, smuggler and corrupper (both the government officer and law enforcement officer) whom were involved in human trafficking had arise benefit up to US $7 billion from its crime. Futher more stated that its crime is more dangerous due to the its development which is wider and huge, become of new sources and purposed, more and high technology mechanism, variant of purposed, change of victim background, the wider link of offender and sector industry criminal, also the strong link of business between the offender and political link, the increased of benefit with and without any risk, the gross violation of human rights for the benefit gain, akan di dapatkan.

Until today, the human trafficking is still existed even in Indonesia. Several places in Indonesia became the central or place that can send those people who will traffick, most of them is recruited with promising to get the adequate work with highly payment. Most of the victim are women and children under age with lower education also very poor so its so easy to persuaded with some of good promised like high payment, good job.

Today, Indonesia has the Law Number 21 Year 2007 on the eradication of the criminal perpetration to the human trafficking (statute book year 2007 Number 58), April 19, 2007, As the effort to law protection whether direct or un direct to the victim, candidat of victim in order to not be a victim. Even Indonesia has ratified United Nations Convention against Transnational Organized Crime with Law Number 5 Years 2009, in January 1, 2009. By its ratification, means Indonesia became part of the effort to eradicate the human trafficking globally.

Also it has been issued on President Regulation Number 69 Year 2008 of the duty to handling and prevention the criminal perpetration of human trafficking, then the ministry of woman empowerment. In order to handling the victim and witness of human trafficking crime, the ministry of woman empowerment also had issued the regulation of Ministry of Woman Empowerment, Number 1 Year 2009 of minimum services standart for the witness/victim of human trafficking and the abolishment of sexual exploitation to the children and tenagee in city/town.

Based on description above relating to the increased of human trafficking as global crime included Indonesia, so the problem analysis which should be discussed trough this paper is how is the law form for the protection of the victim from the human trafficking crime In Indonesia according to International Law?

II. ANALYSIS AND DISCUSSION

A. Definition of Human Trafficking

Definition of trafficking according to the President Regulation Number 88 Year 2002 in December 30, 2002 on the abolishing trafficking for women and children, has mentioned:

Women and children Trafficking is all forms of the offender consist: one or more act to: recruited, gained between city or country, movement, departure, acceptance, relocation by: intimidating, use of verbal and physically violation, kidnapping, cheating, take benefit to the varnerable situation such as when somebody does have no choice, isolate, depend to the drugs, dept trapping, et by given or accepted the payment or benefit from the women and children which used with the purposed of: prostitution and exploitation (included paedophilia), migrant worker either legal or illegal, child adoption, working on jermal, servant for household, begger, pornographic industry, forbidden drugs seller, human body organ seller and any other form of exploitation.

While the UN (2000) limitation to the human trafficking are:

a) Human Trafficking is recruited, sent, moved, relocated or accepted people with intimidating or abusing all other form of forced, kidnapping, cheating or power abused or vurnerable position or to give and get the payment or the benefit in order to get approval from authority with exploitation purposed. Exploitation is included the exploitation for prostitute other people or any other form from sexual exploitation, force service, slave or any slave practices or taking part of body organ.

b) Approval from the human trafficking victim to the its exploitation mentioned on sub paragraph (a) in this article would not be related if of the form as mentioned above had been used.

c) The recruitment, send, movement or relocated or received the children with exploitation purposed would classified as human trafficking

d) Child is all people under 18 age year old

B. International Instrument Relating to the Human Trafficking

These conventions have begun the countries effort to abolish the human trafficking, specially for women and children:

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1. International Agreement For The Suppression of White Slave Traffic Year 1904
2. International Convention for the Suppression of White Slave Traffic, Year 1910;
3. International Convention for the Suppression of Traffic in women and Children 1921; and

Those convention generally refer to human trafficking when moved the human being specifically to women and children trough state border passage and prostitution purposed. It Stated clearly that the suppression of human trafficking in prostitution purposed would arranged into Convention for the Suppression of the traffic in Person and of the Exploitation of the Prostitution of the Others of UN in 1949 dan entry into force since 25 July 1951.

C. Victim Protection of Human Trafficking Crimes According to International Instrument of Trafficking

The Protection of victim actually part of human rights problem and the right of victim itself also part of human rights concept. Due to that reason, it is necessary to have the law protection for the victim.

In other words can be said that all the victim from any forms of crimes should be protected due to the victim rights in getting claim to the offender, victim should be able to maintain the amount of indemnation but of course all forms for revenge and indemnation take over by the State, so voice of the victim has not concerned anymore. Futher more in the new concept of criminal law, where mentioned the necessary to empowerment and threat the behave of the offender to get back well into society life, which is effect that State has less concerned to the victim (Mardjono Reksodiputro, 1994:75-76) [5]. Nodays had developed the new orientation to the Criminal Law, before the criminal law oriented only to the crime with targeting prevention of crime, then to the offender with targeting treatment of offender, then developed to victims with targeting treatment of victims. Concerned to the victim on Criminal Law these days in order to suppressed the impression that it only “spoil” the offender than concerned to the victim.

According to article 43 Law Number 21 Year 2007 which is refer to Law Number 13 Year 2006 actually was the effort to harmonized between the two laws. Due to Law Number 13 Year 2006, has managed about the protection of witness and victim.

In some countries, the attention to the victim chance has shown good effort where there are some indemnation given to the victim as wished of the most of international society where held the UN Conference in Caracas, Venezuela on 1980. The UN Commission of Crime Prevention and Treatment of Offenders opinion that UN Conference VII held Milan on 1985 must discussed about victim problem which had covered the victim of conventional crimes, like abuse to the people or victim due to power abused such as economic and politic, organized crime and exploitation, and pay special attention to the vulnerable people like women, children and minority ethnic (Paul Zvonimir Separovic, 1985:425-426) [6]. Also according to the recommendation of UN Conference VII in 1985 in Milan has state: That the rights of victim must be seen as an integral from all of the criminal law system. Related to it, Joanna Shapland, and partners (Joanna Shapland, Jon Willmore and Peter Duff, 1985:1) [7] had remain while before that, the victim of crime has been forgotten by the people in Criminal Law Systewm. Less of concerned given to the victim would lack the process of work of Criminal Law System.

Based on it, J.J.M. van Dijk, and friends (J.J.M. van Dijk, H.I. Sagel-Grande, and L.G. Toornvliet, 1999:289) [8] written that in the middle of 20th century, the criminal law mostly not concerned to the position of the victim. While the Criminology always refer to the offender. The growth of Criminal Law begin in year 1960 with purported that suffering of victim would be much lighter. Then, on late of 1980, in many country had rised groups to campaign for treated the victim better in criminal law system and the criminology which oriented to the victim.

The growth of concerned to the victim has shown that problem is still part of the Criminal Law system which is supposed to get much attention. The respond of UN Conference (as a compare) European Commission (European Commission, 1999: 2) stated that in independence era, justice and security in European union community, must have guarantee of European citizen to access in Criminal Law System. Because of it, the individu must get the adequate protection of law. It is important due to the ignorance of the rights of victim since long time and it is time to pay attention more to the right of victim. The effort to the protection of criminal victim actually had done since early 1980, where the European Commission had adopted some of instruments international with purposed to fix the victim rights in European Union. Next steph from its effort in many chances had been discussed in European parliamnet. In 1998, The problem of victim protection is still been discussed in European Council and the result was victim of crime entry into Action Plan on Freedom, Security and Justice.

UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power actually had adopted by General Assembly per 29 November 1985 (General Assembly Resolution 40/34), and reflexed it a willingness from all the international society to balance between the fundamental rigts of the offender and the rights and interest of the victim. The declaration based on the philosophy thought that victim must be protect

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and treated such a human being. According to it, the right of victim to access of the justice mechanism and get well into indemnation of those suffering. Apart from that, the victim also has right to get special help relating to emotional traumatic and other problem due to the grief befalling victim.

Concerned to the victim must be not just for the victim of the conventional crime (like rob, rap, steal and other crimes) but also to victim of non conventional crime, like human trafficking victim.

As mentioned above, the increasing attention to the victim of crime actually to balanced the fundamental rights between the offender and the victim. For that purposed, the concept is must clear in other words must be maintain first either the aim and scope of it protection.

To create the concept of victim protection, the need to consider the concept of Criminal sanction as Barda Nawawi Arief mentioned (Barda Nawawi Arief, 1996:98) [9] that the concept of criminal sanction must be based on balance from two main direction, protection to the society and protection to individu so would born the concept of Daad-dader Strafrecht. But for the individu protection, in my opinion must be in wider scope, not only just for offenders oriented but also for victims oriented. Victims oriented also can be wider, not oriented only in potential victims, but also actual victims or direct victims. Due to it Daad-dader Strafrecht concept which had implemented in article 11 Draft Law of Criminal Law Book of Indoensia 2008 (Explanation of article 11) [10] and supposed to review and developed with Daad-dader-slachtoffer Strafrecht consent.

Futher more, the victim will not feel marginalized anymore in Criminal Law. So the equal and balance must be developed in the new of Indonesian Criminal Law Constitution/book.

D. Law Protection for Victim in Human Trafficking in Indonesia

Human Trafficking or Trafficking In Person is a crime that is very hard to stop and called as modern slave by the international society nowadays. It became of 7 priority of the Police in Republic of Indonesia together with suppression of gamblers, narcotic drugs, corruption,illegal logging, fishing-mining, human trafficking, crime on road and anarchism. The Human trafficking is growth continuously both national and international. In Addition to the growth of technology in communicate as well as transportation which is used by the offender or trafficker to do the new crime like: human trafficking trough internet or syndicate network by the broken chain.

The practice of human trafficking in Indonesia, actually has existed since long ago, just due to the less of awaraness from the society and had worst networking between the Police, attorney, Judge and non government organization also the advocate which is part of the sub system in Criminal Justice System (CJS).

Indonesia is not only known as a sender country but as a transit country and receiving country either. It means some of area in Indonesia, known as area where the victim comes from and some of places became a place where victim get the exploitation. They are not only sales around Indonesia but also outside of the country, like Malaysia, Arab Saudi and Jepang.

The phenomenon of human trafficking in Indonesia, in practicing is a very wider spectrum, started from the illegal then packed it up with very good way like official authority as it cover to the crime practising. The effort to dismiss the human trafficking or Trafficking In Person had done by the government issued with Law Number 21 Year 2007 about the suppression of human trafficking with preventing way start from recruited process, transport, relocated, delivery, movement to the people whom suspect to be trap into it.

On Law Number 21 Year 2007 had mentioned the direct protection of law to the victim, like implemented in article 43 to article 55. Specially to the responsibility of the offender also mentioned in article 48 until article 50. Law number 21 year 2007 has shown a lot of further significant, specifically about the responsibility to the victim but if we pay attention to articles 50 point (4) of Law Number Year 2007, there is a problem due to punishment of jail just a human and in context of article 50 point (4) of the Law Number 21 Year 2007 which can be punish is the people but how is with organization? While has mentioned above, article 1 point (4) of its law maintain that everyone mean not only human being but also company or organization.

According to these, It law has a weak in forcing the company to fulfill their obligation of the victim from the human trafficking crime, apart from it, also shown the inconsistent in defined the subject of the offender.

For the future, Hopefully the criminal law punishment for the company should be develop widerly to those alternative sanction which use to be fined/penalty. For those reason the Law Number 21 Year 2007 trough articles 15 point (2), has arranged:

a. Repeal of permit ;

b. Hijack of property Criminal Act;

c. Repeal of law body status;

d. Fired board ; and/or

e. Prohibition to the board to establish new company in same field.

Remaind the concept of protection is not just potential victims oriented, but also to actual victims, so the laws it much further than previous law.
According to Schafer, that the indemnation to the victim should be offender own responsibility, it based of part from the community prossecing. Based on this point of view, the restitution is not refer to the victim instead but on the same time willuse to help the offender get back into its society as well as rehobilitation, an its part of the punishment (M. Arief Amrullah, 2003:213) [11]. As J.J.M. van Dijk wrote that to handling the conflict between the offenders with the victim, then criminal law is a helper to solve the conflict due to justified the victim. Then to answer the demanding of people of the serve, specially to the victim of human trafficking, so Police officer had done some new changes from “militaristic” to “civilian police” from or change the attitude from antagonist to protagonist.

Those all form the acceleration of culture transformation which has shown two face with unable to separate coherent face and humanist face. Police institution as its main duty and authority had given by the law articles 13: Police of the Republic of Indonesia is part of one function from the government in security and orderliness society. It is also mentioned in Police mission is able to protect and guide as well as server the society and stand near the peole surrounded also as a professional and proportional law enforcer with always respect to the law and human rights, keep the security and create the well security in this country with democracy and welfare state. In order to handle the human Trafficking in preventing and handling as mentioned in articles 5 point (2), so the government should created the duty group with member of the representative from the government, law officer, people organization, non government organization, researcher/academission in order to prevent human trafficking crimes.

But the implementation of it working groups has not working optimal yet so need to coordinate in order to prevent, protection even for law punishment and cooperation trans sector in order to prevent the human trafficking. The un optimal coordination and cooperation between those institutions related to these indicators, such as:

a. Preventing
In order to prevent the human trafficking, the most important is the Law Number 21 Year 2007 has not been sosialised to the people specifically to the Indonesian worker whom will send.

b. Protecting
It has not created the good cooperation either good coordination as mentioned for the working group duty especially if connected the bilateral cooperation, multirateral, regional and international in order to solve the human trafficking. Nor the Government Regulation Number 9 Year 2008 of mechanism of the service for witness and victim of human trafficking.

c. Punishment in Law
There is no coordination and cooperation in law punishment between Police officer, Law and Human Rights Department, Supreme of Court, Attorney General due to the victim is not active or not report to it because lack of understanding law or embarrassament.

III. CLOSURE

The protection of victim from human trafficking actually is part of the human rights problem and the rights of victim is un separate part with the human rights concept either, so it is need to be protect while in Indonesia, the victim protection of human trafficking has managed into the Indonesian Criminal Law Constitution and also the Law of Number 21 Year 2007 about the suppression of human Trafficking. The fact is human trafficking crime is still exist together with the high technology like communication and transportation and is also became an transnational crime but we have to optimist that the country like Indonesia can reduce or even suppressed the human trafficking by the work of working group that has established like mentioned above also the protection and restitution to the victim of human trafficking should be pay attention by the government. Also the punishment from the offender and its company or institution should be enforced like what the existing law arranged in order to stop the victim of human trafficking. As the human trafficking is becoming a transnational crimes so also the international instrument of its crime should be implemented to the countries in the world included Indonesia. The protection of the victim of human trafficking in Indonesia should be implemented remaind of many victims of its crimes so the government should be given the guarantee like law protection to the victim of human trafficking.

REFERENCES

*Corresponding Author: In Karita Sakharina

[3]. To understand what the organized crime mean, in Article 2 point 1 Article Proposal and Contributions Received from Governments, stated (General Assembly, A/AC.254/5 19 December 1998), that organized crime is the activities with purposed to do something related an criminal organization.


[10]. Explanation of article 11, stated, like: Indonesia Criminal Law based on actor and maker (daad-daderstrafrecht) and according to it established the legality principles and wrongful principles.

Significance of Lai Haraoba in Manipuri Society

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I. INTRODUCTION

Lai Haraoba is a festival which is celebrated annually in different areas of the Manipur State and is related with the tradition, ritual and belief of the Meitei communities. The festival shows an image of the Meiteis way of living, tradition and customs and this festival is the original source of dance, music, rites and rituals, indigenous games and primitive live of Manipur. The Lai Haraoba is perhaps the most authentically Meitei of all the traditionally festivals, and the one which most closely preserves the ancient Manipuri culture. As one Manipuri Scholar and writer has put it:

Lai Haraoba festival is not merely a dance or a series of dances but a drama, a dance-drama so to speak, associated with ancestor-worship, village deities numbering more than 300, Nongpok Ningthou and Panthoibi with Manipuri priests and priestesses being the directors and star performers. The Lai Haraoba mirrors the entire culture of the Manipuri people. It reveals its strength and weaknesses, the belief and superstitions, and perhaps also the charm and happiness of the Manipuri people,
(E. Nilakanta, 1997).

Different scholars and writer have given different interpretation regarding the literal meaning of Lai Haraoba. J. Shakespear interprets Lai Haraoba as “pleasing of gods”. According to Louise Lightfoot interpreted Lai Haraoba as “spirits pleasure”. T.C. Hudson views Lai Haraobca as “the rejoicing of the gods”. E. Nilakanta opines it as the “merry making of the gods and goddess”.

The various act which were performed by the Almighty God for the creation of the universe are expressed in the form of dance, song etc in Lai haraoba festival. Lai Haraoba also signifies the creation of the universe by the Lord Asiba. Thereby, Lai Haraoba is said to be cosmology. This festival is performed in front of a particular Lainingthou (God) and Lairembi (Goddess). The venue of the performance is known as the “Laibung”. Lai Haraoba conducted with the help of three ritual functionaries called maiba, maibi and penakhongba. They played the major role during the festival. Lai Haraoba mirrors the entire culture of Manipur people. It is in belief the culture of Meities communities are derived from Lai-haraoba.

Origin: One cannot trace the origin of Lai-Haraoba in the history of Manipur and there is no historically authentic evidence to show how and when Lai Haraoba started. Traditional scholars are divided in their views regarding the origin of Lai Haraoba. The first group is said that the Lai Haraoba was first originated on the top of “Koubru Hill” and another second group opines that Lai Haraoba was first performed at “Langmai hill” (now known as Nongmaiching Hill). This viewpoint was based on Meitei text “Panthoibi Khongul” taking it as the sole authority. Many of the traditional scholars associated the origin of the Lai Haraoba with the Leisemba myth (creation myth of the universe). They supported the original source of Lai Haraoba as expressed in the ancient Puya – “Lai Hoi Laoba” which means rejoices of the God.

Types Lai Haraoba is celebrated in different villages or for a clan in Manipur. According to the tradition of the village or a clan, Lai Haraoba can be divided into four types.
1) Kanglei Haraoba: Imphal and surrounding areas.
2) Kanglei Haraoba:- A place about 45 km to the south west from Imphal (at Moirang celebrated in honour of Lord Thangjing).
3) Chakpa Haraoba:- Andro about 40 km distance to the east from Imphal,
    Sekmai about 25 km far to the north from Imphal, Leimram about 25 km far to the west from Imphal and Khurkhul and Kwatha about 100 km on the Indo Burma road 15 km before Moreh Bazar etc (All non-Vaishnavite villages).
4) Kakching Haraoba:- A place about 45 km far to the South, East from Imphal.

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Kanglei Haraoba:- This type of Lai Haraoba performed a ritual during the festival called the “Kangleithokpa”. It is also known as “Lai Nupi Thiba” . In Kanglei Haraoba, Lai Ekouba is done on the bank of the river or pond, Lairen Mathek (a serpent move) known as “Yumjao Phaphal” is performed, annually Lai Lamthokpa is done during Lai Haraoba. On the day of lairoi (the last day of Lai Haraoba festival) ritual song known as “Qugri Hangel” is sung and after Lai Haraoba, Mukna (wrestling), Lamjel (race), a kind of sport is performed.

Moirang Haraoba:- It is celebrated during the month of May-June annually. It takes three years to celebrate this festival. In the first year of this Lai Haraoba, Yum phamba is celebrated. In the second and third year Lamthokpa and Khongchingba are celebrated respectively. Lai Ekhouba is done on the bank of Moi rang river, “Nanbi Maril”, Lairel Mathek known as Tiltu Lairu is performed. Olugri Hangel is sung on the eve of Khongchingba, Mukna Lamjel (a kind of sport) is performed during Lai Haraoba festival.

Chakpa Haraoba:- Lai Haraoba performed by a GROUP OF Chakpa people (Non-Vaishnavite communities) is known as Chakpa Haraoba. According to the place they settled the number of God and the process of Lai Haraoba is different. They worship their ancestor Chakparel Sawang. Almost all the Chakpa village use animal for “Suren Chanba”.

Kakching Haraoba:- In Kakching Haraoba, Leiroi Hanjaba (a person in charge of collecting flower), a long with his khongbu (partner) go in search of flower in Purum village a day before the commencement of Lai Haaoraoba. God and Goddess are carried in the palangiuin and go for Ekhouba and carried out the process of Ekhum Etaba and Ekaba. On the last day of Lai Haraoba, Ngaprum Tanba (eel hunting) programme is performed.

Ritualls:- One day before the commencement of the Lai Haraoba festival, the ritual of Lai-phisetpa (dressing up the deities) is performed by the maibas and maibis. In this ritual, idols of Lainingthou and Lairembi are made from bamboo and are clothed.

Main Rituals of the First Day in Kanglei Haraoba:-

The festival begins with the ritual of Lai-ekouba, which signifies the summoning of the spirit of the deity from the water. The maibas (priests) and Maibi (priestess) along with people of the villages, walk to the designated Ekhoupham (river or pond) in two rows. The maiba (male priest) invokes the God by throwing Konyai (gold and silver coins) and rice into the water. One maibi danced meanwhile another maibi produces the Hirilung (thread made of cotton) from an Ehaiphu (earthen pitcher) and ties the Leiyom (a particular species of leaves) to a stick three times. Holding it in her right hand, she dips the stick in the water and then, with the left hand, rings a bell, chanting the Laihourol (Hymns of creation) till such time as the spirit of the deity enters her body. Immediately afterwards she falls into a trance and begins to predict the future of the people.

One the ritual is completed, the procession returns back to the shrine maintaining the former order in two lines. This part of the ceremony is known as the “Hikaba or Lai Higaba”. The spirit of the god and that of the goddess now reside respectively in two Ehaiphu carried by two Lai-putbas. This procession is headed by maibi who dances, rings a bell in time with the pena (a string instrument) and beats the Harao pung (a drum). Lastly, these occurs a ritualistic sequence corresponding to the infusion of the spirits in the urns, by which the installation of the God and Goddess is carried out. After the installation ceremony, the divinities are worshipped daily. Prescribed ritual are performed in the morning as well as in the evening.

II. MORNING RITUAL

Lai yakaiba:- Everyday in the morning Pena khongba sits in front of the two presiding deities and sings Yakaiba, a song of invocation inviting the deities to the day’s programme.

Laimang-Phamba or Laiopia Chenba:- The Maibi sits in front of the deities and transports herself into a state of trance and delivers laopao (prophecy or oracle). This session is called Laimang Phamba, and then she danced Jagoi Katpa fortho two deities.

Evening Ritual:

Lei-Langba:- Men, women and children in their traditional costumes go to the Laibung, the venue of the festival, to offer flowers to the deities. The actual offering of flowers is known as the Lei-Langba.

Hoi Laoba:- The maiba sings Lai Hoi Laoba with accompanied by pena player and a harao pung. A few participants joins themin the singing while clapping.

Thougal Jagoi:- The maibus and the participants dances the Thougal jagoi which invoke the deities.

Laiching Jagoi:- The maibi dance with the Langthrei (a special leaf) held between their fingers. This sequence involves a variety of expressive movements where the spirit of the deity is invited to enter maibus body. It also includes the Laisem Jagoi or the enactment of the creation of the earth bynine God (Laibungthou mapal) and seven Goddesses (Lainura taret).

Laibou or Laiipou:- Laibou is an important ritual in which the maibi and the other performers or participants will enact the whole process of the life on the earth, starting from the mystery of sexual union to the
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humdrum existence of men and women. The performers who were in the procession of Ikouba will now make two rings around the Laibou-la and maibi will shout instructing the performers to remain silent and motionless because an important ritual act called Hoirou Haya Laoba is going to be enacted. The maibi will utter some meaningful lines by way of incantatory singing to the accompaniment of pena music.

Hakchang saba or Hakchang sagatpa:- The maibi performs the important dance of hakchang saba depicting the formation of the human body limb after limb in the mother’s womb. The various parts of the body are made through dance and symbolic gestures. The complete process of building up of human anatomy takes almost sixty four (64) intricate Laibou Khuthheks or hand movement, gestures, mimes that are highly dramatic & theatrical. In the 64th Laibou khuthhek the infusion of the soul into the body or thawai happa is enacted.

Yumsarol:- Yumsarol is the detail enactment of building of a house or construction of a house of a house. After the construction the house is offered to the Gods.

Panthoibi Jagoi:- After the Yumsarolok, the maibi and the procession perform Panthoibi Jagoi for the prosperity of the whole community. This particular dance which is accompanied by a romantic song sung by the maibi and penakhongba refers to the love of the mythical hero Nongpok Ningthou for his spouse Panthoibi.

Phisarol Jagoi:- After the Panthoibi jagoi, the next item in the sequence of performances is that of the preparation of cloth and offering it to the presiding deities. With a series of gestures, body movements, songs and dialogues the maibi and the members of the procession will depict the whole process of the plantation of cotton plants, preparation of cultivation, sowing of seeds, the flowers offer it to the Gods.

Longkhol Jagoi:- Longkhol jagoi is the ritual of gathering the soul of the deities. The symbolic representation of gathering of soul is done by “Long” (a type of basket to catch fish). The maibi begins the long khonba from the south west corner.

Chongkhong Jagoi Phibul Jagoi Pachuba (Lai Kaba):- The PLhijang cycle begins with the end of the Panthoibi cycle. Phijang cycle includes elaborate rituals like PLhibul habi, Chongkhong yetpa, Chongkhong litpa and Lainen mathek that are performed beneath the Phijang (a cloth spread out). Four men take their respective position and spread out a new innafi or cloth forming a rectangle in the place where the Laiboula had be place earlier.

Phibul ahabi (dance with cloth balls):- The first sequence of the phijang cycle is Phibul ahabi or dance with Phibuls (a kind of ball made of cloth). The four corner of the spread out phibang held by the chong bearers raise it to the shoulder level. Two pristress (maibi) take out two phibuls or cloth balls representing “Lainingthou and Laiemma”. The cloth balls are placed on the Phijang. The Amaiaba dances “Phibul Jagoi” by running short quick steps, beneath the white cloth.

Chongkhong Yetpa:- The second part of the phijang cycle is Chongkhong yetpa literally meaning encircling the Chongkhong (Chong’s post). The Amaiaba representing Lainingthou and Laiemma in the ritual will run underneath the phijang holding the balls on their right hands by twisting and turning on the posts. The anticlockwise and clockwise movements all round the post form “8” like pattern. Still holding the balls, back in their original position, the Amaiaba dance and sing songs.

They proceed towards the Lainingthou chong post standing behind the post bearer and touch the two balls to the chant of “Chui-chui” which is known as “Pachuba”. This act is repeated again in the other posts.

Yumjao Paphal:- The phijang cycle ends with Laiem mathek ritual. Laiem Mathek can be interpreted as the curve of the python in which the whole community or procession participate. The spread out phijang is raised up higher than earlier. The right and left lines symbolizing Lainingthou & Laiemma merge into one. The Amaiaba leads the procession for the lairen mathek ritual, starting from right side of the presiding deities (one from Thangjing side south west). Then line marches ahead moving like a serpent beneath the white cloth, dancing between the around the form post or chong post of the phijang. On reaching the centre of the phijang (the spot where the Laiboula was earlier kept). The Amaiaba touch the last person of the lines which is known as “Makok Mamei Chiknaba” or Yumjao paphal.

Wakol Laoba:- The priestess (Maibi) announces the Laikaba ritual (to retire the Lais for the day). The participants assemble together forming a circle and sing the wakol lyrics along with the priest (maiba). The song wakol is accompanied by the loud sounds of the drum. Wakol is sing.

Naosum Eshei:- After the Wakol Laoba, the pena player sings the cradle song (Naorum-eshei) to put the deities of sleep. Naosum eshei is sung to end the day celebration. The daylong celebration comes to an end with deities symbolically put to sleep until the next early morning to repeat the ritual again.

The concluding rituals include:

Lai-lam-thokpa:- On the day before lairoi or concluding day of Lai-Haraoba, in the afternoon, the masks or the devices representing the deities are placed on a dolai or palanguin and carried to a selected place away from the main area of performance. This ritual item is called Lai-Lam-Thokpa which is some kind of an outing or a trip for sightseeing.

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Kanglei – Thokpa (Lai Nupi Thiba):- On the penultimate day, amaibi goes into a trance, utters the laipu (message from the deities) and chooses a bride from among the audience. She is ordained as a maibi and devotes her life to the service of the deities.

Lairoi:- Lairoi is the final ritual performance of Lai Haraoba. On the last day of the whole ritual sequence the daily items of performance will also be carried out. But on this last day some important items like Loujanba, Thang Iagoi, Ougri, Kengcho, Uyanlon, Hijing-Hirao etc are added. These items are performed after the laipou has been successfully completed.

After the Lai Haraoba festival is concluded, the next day there is a ceremonial function known as the Lei Khomba. In this ritual all the items used in the festival such as flowers, fruits and plantain leaves are buried in the premises of the temple.

The importance of the Lai Haraoba for Manipuri religion is very great. It is not only the most important of the traditional rituals; it is also very valuable source of information about traditional Meitei religions rituals. The dancers of Manipur have maintained its continuity from generation to generation. They have preserved, practiced and performed this ritual dance festival and celebrate it to this day. It is thus that Lai Haraoba festival plays a significant role in inspiring and guiding the emotional and cultural life of the Manipur people.

REFERENCES
ABSTRACT: No language is independent in its own and for fulfilling its various needs it has to borrow some words or structure of words from other languages. Bodo language is also not an exception to that. To fulfill its various needs this language has borrowed words from various languages. However, during borrowing the language speakers have tried to adjust it with their proper articulation systems so that the speakers can accept it easily taking these words as its own. The target of this paper is to show this adjustment system in articulation mentioned here as Bodonisation following the language name Bodo.

Keywords: articulation, aspirated, assamese, bodonisation, unaspirated

I. INTRODUCTION

It is a known fact to all of us that no language is complete in its own and to fulfill its various linguistic and cultural needs it is to rely on one language or the other. Bodo language is also not an exception to that. This language belonging to Tibeto-Burman group of the Sino-Tibetan speech family has more than 13 lakhs speakers in Assam. Its speakers are known as Mech and Meche in North Bengal area of the state of West Bengal and in neighboring Nepal respectively are sharing the same code with the Bodos of Assam developing a limited number of regional variations. In the socially recognized standard dictionary Bodo-English-Hindi Dictionary, a total of 10000 words have been shown as head word of the language mentioning The present dictionary entails…..10,000 head-words,…2,100 suffixes and some thousands of explanatory words which have not been occurred as headwords unfortunately.1 It is found that 10,000 words are very meager for running a language in a complete way therefore, to run their language smoothly they borrowed words from different languages and sources from time to time either knowingly or unknowingly and in most of the times tried to adjust its articulation with their articulation system.

No one whether native speakers or others have never tried to write something on this topic. So, the researchers have tried to bring some light how the words have been borrowed from different languages and accordingly adjusted with their articulation system. Hope, this paper will encourage the future researchers in this little known language of the north-eastern part of India.

II. DESCRIPTION ON BODONISATION

In going to discuss about Bodonisation of words the first thing to be mention about is its phonemes. Bodo language has six number of vowel phonemes /i u e o a/ and sixteen number of consonant phonemes including two semi-vowels. These are- /pʰ tʰ kʰ b d g m n ŋ s z h r l w y/. Barring these phonemes, other sounds are very difficult to be uttered by the general mass. Therefore, in borrowing from other languages most of the native speakers as well as some educated polyglots get it difficult to utter those sounds that are not available in their language. Therefore, to adjust with their articulation system they are Bodonising it. One more reason of Bodonisation is that by mixing the loan words with their articulation system they are thinking it as their own and accepting in a more rigid way.

2.1 Bodonisation from Assamese

In Bodonisation process the first language to be mention about is Assamese language, a neighboring language to Bodo. Bodo peoples are generally bilingual having knowledge of Bodo and little or more knowledge of Assamese. It will be good to mention here that Bodo language has so many words having close resemblance to neighboring Assamese language. In the words having close resemblances to Assamese language, the Bodo native speakers have always tried and are trying to adjust it with their articulation system and in going to do so the original form of the word has sometimes changed a little and sometimes to a more higher level, e.g. Ass. kɔpɔl> Bd. kʰap’al (luc).
this, the word for place used in Hindi and Assamese is st₄a₁. Bodo language has not the use of st₄ cluster in the initial position of word. Therefore, when using this word in Bodo the initial sound /s/ has temporarily been dropped and one most important vowel phoneme i.e. high back unrounded vowel of the language has been incorporated in forming the word in Bodo, keeping the meaning same, i.e. the word st₄a₁ has been changed to tᵢ₄ulu₄ in Bodo. However, this word is not used in standard form but is used only in some dialect areas of the language. Another such word used in Assamese language is t₃l₃p₃ra (a kind of cloth prepared from rags). It is composed of two words tol (below) and pora (to spread). In Bodo language, during Bodonisation it has been changed to tᵢ₃lᵢ₃pᵢ₃ra as the language has not the use of unaspirated stops t and p. One more Bodonised word having resemblance to Assamese language is Ass. pᵢ₃r₃h₃a₃₃l₃i₃>Bd. pᵢ₃r₃₃a₃₃i₃l₃i₃ (school). Here also, Assamese p and sh has respectively been changed to p₄ and s in Bodo making it equivalent with their articulation system as the language has only one sibilant /s/ articulated as voiceless alveolar fricative.

The Assamese and Bodo words for jackfruit are k₄ᵢ₄a₄ and k₄₃₄₃₄al respectively and have very close resemblances to each other. Though second syllable is same in both the languages, first syllable varies a little from one language to the other. Here, unaspirated k of Assamese language has been changed to aspirated k₄ in Bodo language and the /a/ accompanying k in Assamese language has been changed to /a/ in Bodo language due to distant regressive vowel assimilation of the second syllable. A nasal /n/ has also been inserted after vowel /a/ to change the first syllable in Assamese kₒ₄ to k₄₃₄ in Bodo. It is important to note here that the original Bodo names of fruits start with i₄₄ (fruit), e.g. i₄₄₃₄₄₄i₄₄ (dilleniss indica), i₄₄₃₄₄₄u₃₄ (mango), i₄₄₃₄₄₄i₄₄₄ (banana) etc. The other word that we get in Bodonised form is tᵢ₄ulu₄si (holy basil plant) having resemblance to Assamese tᵢ₄ulu₄si and Hindi tulsi. In this word also the initial unaspirated t of Assamese and Hindi language has been changed to aspirated tᵢ₄ in Bodo. Likewise, Assamese words k₄ᵢ₄i₄ and talim have also been Bodonised as k₄ᵢ₄u₃₄₄i₄ and tᵢ₄₄ᵢ₄ in Bodo following the system as mentioned above.

2.2 Bodonisation from Hindi

Like Bodonisation of words having resemblance to Assamese language, many words having resemblance to Hindi language are also found in Bodonised form, e.g. Hi. w₄₄₄q₄>Bd. b₄₄k₃₄, meaning in both the languages remaining the same, i.e. time. Why the w and qt of the word wa₄₄q₄ in Hindi has been changed to b and k₄ in Bodo is easily explainable from phonological point of view. Bodo language has not the initial use of the semi-vowel /a/ though it occurs word medially and finally. Likewise, unaspirated k and t are not used in the language. In addition, final consonant cluster of the phonemes are also not available in the language. Therefore, going through all these phonological features of the language, the native speakers have turned the word from Hi. wa₄₄q₄>Bd. b₄₄k₃₄. Of course, the important point to mention about the word b₄₄k₃₄ in Bodo language is that it is used in some areas of Eastern Bodo Dialect and is used to represent negative meaning than positive, e.g. a₄₄₄₄a (I have) b₄₄k₃₄ (time) gui₄₄ya (have not). The meaning of this sentence is I have no time, which the person uttering this sentence is uttering in negative and not in positive.

The Hindi word dag (the mark of burning/a mark/spot/stain), origin Persian dag₄ has also been Bodonised as dag₂₄, keeping the meaning intact. The high back unrounded vowel phoneme u has been included here in the final position of the word during Bodonisation to adjust the word with their structure. Because, Bodo language has not the words ending with voiced g except few loan words but have available words ending with u. Therefore, to adjust with their language structure and articulation system, vowel u has been added in the final position of the word. The Persian origin word hal₄₄t entering through Hindi into Bodo language and becoming hal₄₄u₄₄ in Bodo after Bodonisation is also one notable example in this regard. The first syllable in both the languages have been kept similar whether in second syllable some minor variations are found, i.e. the last two phonemes of the Hindi word /a/ and /t/ have been changed in Bodo to /u/ and /d/. The reason being that Bodo language has not the words ending with t and therefore it has been replaced with the voiced alveolar /d/.

2.3 Bodonisation from English

Like Bodonisation of Assamese and Hindi words, many English words are also found Bodonised, e.g. the words like chair, kettle, table, tennis, cartoon etc. are articulated in native Bodo as si₄₃₄₄a₄, tᵢ₄₃₄₄₄₄₄a₄, tᵢ₄₄₄₄₄i₄₄, k₄ᵢ₄₄₄₄ respectively adjusting these with their articulatory system. Under this process, the non-aspirated sounds have been aspirated in Bodo language in maximum examples given above and in some displacement of phonemes have taken place. The number of Bodonised words from English language may be increase to more.

III. CONCLUSION

It is a known fact every language has its own character and its language speakers feel proud of it. That is why the Bodo speakers when borrowing words from others whether it is from its country or from foreign soil have always tried to find their language smell in it and this is the basic reason behind Bodonisation of non-native language words. This impact of Bodonisation in some words have become so strong that they can’t even imagine it as borrowing from other languages. Even a common people cannot tolerate it when said

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that it is a borrowed word. However, it is very much necessary from linguistic and sociological point of view to study the structures of words of a particular language so that its originality can be recognized and appreciated by all. Therefore, the proper study and examination on Bodonisation of words has become very much necessary.

**Abbreviations**

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<th>Abbreviation</th>
<th>Language</th>
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<tr>
<td>Ass.</td>
<td>Assamese</td>
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<td>Bd.</td>
<td>Bodo</td>
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<td>Hi.</td>
<td>Hindi</td>
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**REFERENCES**

**Books**

Plight of Indian Women as Sketched in the Poetry of Kamala Das

Shubhi Bhasin

ABSTRACT: Kamala Das displays feminist ethos in her poems. She is confessional poet, dauntless and audacious in expressing the prejudices prevailing in society against women. Her poems present her fearless voice in condemning the inequalities and injustice in the treatment of society towards women. As a poet she considers it her duty to report every detail in real life faithfully. Renaissance in modern times began with the abolition of Sati System in Indian society in 1853, but tragically even today women are treated as an object without their own identity. The control of women is still in the hands of men and this male chauvinist society still holds the right to restrict her to the four walls of house. Psychological, social and cultural proscriptions have unleashed tremendous amount of miseries and hardships to them. The present paper studies the pitiable and deplorable condition of women in the light of feminism as echoed in the works of Kamala Das.

I. INTRODUCTION

The journey of Indian literature commences from the social reformer Raja Ram Mohan Roy who protested firstly against the exploitation of woman and advocated the rights of press in his writings as well as actions and movements. According to M. K. Naik, Roy wrote A Defense of Hindu Theism which was ‘the first and original publication in the history’. Born on 22nd may 1772 he was the torchbearer of social reforms for the women. He was strictly against the evils prevalent in society in his time. He was against the practice of Sati and helped to abolish it and it was due to his efforts that Lord William Bentinck banned the custom of Sati in 1829. Though this law was not a great deterrent but it changed mindset of people to some extent. Ram Mohan Roy also did great work in the field of women's education. He was against child marriage and favored widow remarriage. He married a widow thus setting the example for the whole society.

Along with 'Dwarka Nath Tagore' he founded the "Brahmo Samaj" for the reform of Indian society and emancipation of women. Later on Henry Derozio (1808-31) who wrote first original poetry in English was less social conscious but more patriotic. Derozio and Kashipurasad set the tone for the love of India which was followed by Toru Dutt, R.N. Tagore, Sarojini Naidu, M.M. Dutt, Sri Aurobindo, Kashipurasad Ghosh and many more. ‘The third quarter of 20th century has seen the further strengthening of modernist as well as new symbolist’s trend. But few poets cum social reformers protested against the social evils and ills that had taken birth in the medieval age. Post independence Indian English poetry is genuine because it is deeply felt and addressed to the whole community; Indian situations form a vital part of it. In fact, these ‘Indian Situations’ of post-independence period which were full of struggles, sufferings, protest of new India against the age old dogmas and customs and traditions which have already lost their grace, sanction and hold on society in the medieval ages, were responsible for giving birth to ‘protest’- a voice which discard all the vices present in the society. These societal changes are loudly audible in the work of Kamala Das.

In fact her poetry highlights and condemns the inequalities and injustices in the treatment of women-the disadvantages-women have to bear on account of their gender. Feminine Sensibility has been identified in the poems of Kamala Das. She suffered a lot in the society of traditions and conservative outlooks and her life of sex with her husband was lacking vitality. Her husband, much more advanced in years than her used her as “lavoratory” in the matter of sex, and therefore, her womanhood cried out. She represents a common woman of Indian society who goes through the same heinous experiences in her life. Thus Kamala Das writes on her particular life and transform it into a universal, allowing female readers the ability to identify with her. According to her both man and woman should get equal chance to get their individuality.

II. DISCUSSION

An Introduction, a poem included in Kamala Das's first volume of poetry, Summer in Calcutta(1965), poignantly displays how patriarchy-dominated society has always tortured women. Even if she opts for male clothing to hide her femininity, the guardians enforce typical female attire, with warnings to fit into the
socially determined attributes of a woman, to become a wife and a mother and get confined to the domestic routine. She is threatened to remain within the four walls of her female space lest she should make herself a psychic or a maniac. She confesses “Then … I wore a shirt and my brother’s trousers, cut my hair short and ignored my womanliness. Dress in sarees, be girl, be wife, they said. Be embroiderer, be cook, be a quarreler with servants. Fit in. Oh, belong, cried the categorizers. Don’t sit on walls or peep in through our lace-draped windows.”(1)

In India women are still restricted to do the household chores. Women of India have been living in the culture of silence through the centuries. They have remained mute spectators to their exploitation, oppression and barbarity against them. They do not have any control over their own bodies, earnings, and lives. They are even not free to wear according to their own choices. In fact the so called civilized and honoured group of male individuals still restrict female in the selection of their dress. Thus through her dauntless fervor Kamala Das states the pitiable and pathetic condition of women in Indian society. Kamala Das’s poetry marks a significant phase that the feminine poetic consciousness of India has reached in its development. Dr. Konnur rightly points out when he says,

"Kamala Das’ autobiography clearly shows how her urge for identity and liberation finds its fulfilment in the superimposition of her poetic self over the domestic self which compelled her to play the monotonous and enslaved role of a wife.”(2) They are one among the worst sufferers of socio-cultural, political and economic exploitation, injustice, oppression and violence. Their woes and miseries are boundless. They do not enjoy any social security As Kamala Das said-

“He did not beat me
But my sad woman-body felt so beaten.
The weight of my breasts and womb crushed me.
I shrank pitifully.”(3)

Violence against women in India has never been uncommon phenomenon. Women in the Indian society have been victims of humiliation, torture and harassment as one can observe from written records and newspaper reports. Kamala Das too have experienced the same though she was victim of psychological and mental stress. H.M. Williams call it “a witty and moving apologia which with economy, deftness and artful simplicity is both a vivid self-analysis and a poignant assertion of her individuality against social and cultural conformity.”(4) In her poems there is a note of protest and resentment at the lustful exploitation of woman. The tension in man-woman relationship, the inadequacy of love and intolerable sexual tyranny enable the poetess to protest against sexual subjugation. She yearns for liberation-

“Must seek at last
An end, a pure total freedom it must will the mirrors
To shake and the kind night to erase the water”(5)

She has lost her identity in the presence of the domineering male and craves for liberty as

“Cowering
Beneath your monstrous ego I ate the magic loaf and
Became a dwarf.” (6)

Poems of Kamala Das epitomize the dilemma of the modern Indian women who attempt to free her sexually and domestically from the role bondage sanctioned to her by the patriarchal society so Kamala Das has portrayed the true picture of changing Indian society.

III. CONCLUSION

Thus Kamala Das has truly reflected the societal changes in context of the living and psychological conditions of women in the society. In fact she not only draws forward the deplorable condition of women in society but she also raises her voice for demanding equal human rights for them. Kamala Das dared to reveal the changing attitude of women in the society. She audaciously and boldly faced all the criticism that came on her way, but as a true literary figure she started demanding rights of women in this patriarchal society.

It is being felt that sincere and honest efforts are urgently required for the improvement in women’s status. The vast untapped power of women needs to be utilized fruitfully to make this earth a better place to live in. Nonetheless, poet Eunice de Souza claims that Das has “mapped out the terrain for post-colonial women in social and linguistic terms.”(7) Das has ventured into areas unclaimed by society and provided a point of reference for her colleagues. She has transcended the role of a poet and simply embraced the role of a very honest woman. Kamala Das tried her best to uplift the position of woman and thus resist the dominance of man.

REFERENCES

[5]. Ibid.
[6]. Ibid.
[7]. Eunice de Souza, Nine Indian Women Poets: An Anthology, (Delhi: Oxford University Press,1997)

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Classification of Services across the World and in India

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ABSTRACT: In this paper, the authors review the system of classification of services followed across the world. Classification of services for the purpose of economic statistics or trade differs from the classification of services for the purpose of taxation. Taking the Indian case, the authors explain how a system of classification of services has emerged over a period of time, as the tax on services was gradually extended since 1994. Instead of designing a classification in a comprehensive manner based on defined a set of principles, if tax authorities let the classification evolve, many consequences follow, few of which are discussed by the officers.

Keywords: taxation, tax on services, classification of services, Goods and Services Tax, Indirect tax

I. INTRODUCTION

The purpose of classification is to provide a clear and practical way to organize and communicate information. Classification helps in analytical research since based on certain set of principles, items with similarities are grouped together vis-à-vis those with dissimilarities. In other words, classification reflects the diversity of the research universe. In addition, classification provides a way to establish a link between related items arranged in an Order. Group arrangement of items based on principles enables the making of a hypothetical relationship between different items, frequently referred as variables. Though Carl Linnaeus is known as the father of taxonomy, for having introduced the classification of biological organisms based on the ‘binomial nomenclature’ [genus name and species name], it was Aristotle, who laid the foundation of analytical research using classification, when he classified creatures into ‘animals with blood vs animals without blood’ and ‘animals that live on land vs animals that live on water’. In his seminal work, ‘History of Animals’, he sowed the seeds of binomial classification, based on the principle of ‘ladder of nature’ or a ‘Great chain of being’. Beginning with Aristotle, now, ‘classification’ as a method, has permeated almost every academic discipline of research.

In this paper, various systems of classification of services, followed across the world. I’ll examine, how the purpose of classification, gives rise to principles, based on which services are classified. The purpose of classification can be anything, including generation of economic statistics(UN-CPC), expansion of trade(WTO) or taxation (Indian scenario). In the Indian scenario, for the purpose of levy of service tax, historical development of tax base itself, is offered as a classification principle and known as ‘positive list’.

II. CLASSIFICATION OF SERVICES - INTERNATIONAL SCENARIO

2.1 United Nations Central Product Classification (CPC) version 2.1

2.1.1 Outcome of production, made by human beings, involving intellect, machinery and other resources, takes two forms, as goods or services. Goods are tangible, transportable and storable. In a five-digit classification, the United Nations Central Product Classification tries to classify all the goods and services, which human beings produce. In the classification of products provided by the UN-CPC, there are three advantages: (i) such a classification goods and services helps in comparison of specific activities across countries, particularly economies; (ii) various types of statistics used in different parts of the world can be harmonized in the long run, which means reliable statistics can be generated; (iii) the classification of goods and services developed by UN can be used as a standard, to measure, how other classification or statistical systems are comprehensive in their coverage.

2.1.2 Under CPC, goods and services are subdivided into a hierarchical, five-level structure. The classification is made of categories designed to be mutually exclusive. Sections are the highest-level categories. Sections are enumerated. Some examples of sections are, “Agriculture, forestry and fishery products” (section 0), “Constructions and construction services” (section 5) or “Community, social and personal services” (section 9). The classification is then organized into numerically coded more detailed categories: two-digit divisions; three-digit groups; four-digit classes; and, at the greatest level of detail, five-digit subclasses.
Goods and services which arise from a single industry are grouped together, in the classification. Goods in the harmonized system (HS) are classified in sections 0-4 and the in sections 5-9.

2.1.3 It is not possible to segregate goods and services in the real world. Many times goods come along with services and are provided involving some goods. Therefore, a category of ‘other products’ are found in CPC. For example, intellectual property products are classified as other products.

2.1.4 CPC classifications is based on certain principles[1], which are as follows:
(a) category that provides the most specific descriptions shall be preferred to categories providing a more general description;
(b) composite services (meaning, a combination of different services) which cannot be classified on the basis of principle (a), should be classified as if they consisted of the service which gives them their essential character, in so far as this criterion is applicable;
(c) When services cannot be classified based on the principle at (a) or (b), classification should be under the category that occurs last in numerical order among those equally merit consideration;
(d) if a service is not classifiable based on the above principles, they should be classified under the category appropriate to the services to which they are akin;
(e) in case of bundle of goods and services, classification shall be according to their main component, in terms of value addition, in so far as the criterion is applicable.

2.1.5 In the UN CPC, when a description of services falls under two or more categories, classification should be decided at the level of same categories, like for example sections, divisions, groups, classes or subclasses that are comparable. An overlap occurring at the level of divisions should not be decided at the level of groups. UN CPC is also supported by very extensive Explanatory Notes. Countries across the world, adapt the UN-CPC to suit their local requirements. In India, the National Statistical Organization, has been involved in the designing of national version of the CPC.

2.2 WTO Services Sectoral Classification List: W/120
2.2.1 According to the General Agreement on Trade in Services (GATS), trade in services is nothing but supply of services. There are four modes of such supply of service, namely, cross-border supply, consumption abroad, commercial presence and the presence of natural persons. WTO Members are not obliged to use any particular classification system in undertaking commitments regarding trade in services. The Services Sectoral Classification List (W/120), designed as an informal document for the services negotiation in 1991, Uruguay Round, is used as the principal guiding classification system in several trade negotiations across the world.

2.2.2 The Services Sectoral Classification List consists of eleven broad sectors. The description "Other Services Not Included Elsewhere", serves as a residual category. With the arrival of ‘new services’ in the field of telecommunications, computer, logistics and education services, overlap between descriptions used in the sectoral classification has become a challenge to be resolved.

III. CLASSIFICATION OF SERVICES FOR ECONOMIC STATISTICS – INDIAN SCENARIO
3.1 National Product Classification for Services Sector (NPCSS)
3.1.1 Central Statistics Office (CSO) of the National Statistical Organization under the Indian Ministry of Statistics & Programme Implementation brought out a National Product Classification for Services Sector (NPCSS).

3.1.2 As per the recommendations of the Expert Committee for Standardization and Mapping of National Product Classification (NIC) and Indian Trade Classification [ITC (HS)], the Central Statistics Office (CSO) of the NSO developed the draft Product Classification for the non-transportable goods (Services). The Services sector covers the areas of Constructions & Construction services, Distributive trade services; accommodation, food and beverage serving services; transport services; and electricity, gas and water distribution services, Financial and related services; real estate services, and rental and leasing services, Business and Production services, Community, social and Personal Services.

3.1.3 The ITC (HS) contains 97 chapters in accordance with the Harmonized System Nomenclature (HS), developed by World Customs Organization (WCO). The chapters 98 and 99 which are reserved for individual countries by WCO are used in India for the purposes of ‘Project imports' and 'Miscellaneous goods' respectively. To maintain continuity of the classification of services sector along with the classification of transportable goods, in consultation with DGCI&S (which is the custodian of ITC (HS)), the Product Classification for services sector was developed under the chapter 99. Further, under the chapter 99, the next five digits were adopted from the Central Product Classification (CPC), which is a five-digit Product classification developed by United Nations Statistics Division (UNSD) for both transportable goods and non-

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transportable goods. To maintain the number of digits as eight, as is the case in ITC, and to expand the CPC five digit codes further according to the Indian requirements, each CPC subclass (5 digited) has been classified into maximum nine categories to arrive at an ultimate eight-digit product code.

3.1.4 Thus, the structure of the National Product Classification for Services Sector (NPCSS) may be described as “99 + five-digit CPC code + one digit for Indian requirements”. The main advantages of this eight-digit coding structure are the continuation with the existing ITC and the international comparability (since Customs and Central Excise Tariff, which is based on the HSN developed by the WCO, is also an eight-digit classification system for commodities). Essentially, NPCSS is based on UN-CPC. Therefore, Interpretative Rules for Classification and Explanatory Notes, which support the UN-CPC should also be applicable to NPCSS.

IV. CLASSIFICATION OF SERVICES FOR TAXATION – CURRENT PRACTICE IN INDIA

4.1 When services were taxed for the first time, in the year 1994 under Chapter V of the Finance Act, 1994, need for a classification did not arise. It was in the year 2003, after the expansion of tax base to cover more services, section 65A was inserted in Chapter V of the Finance Act, 1994, which outlined the principles of classification. A need for such a classification of services arose for several reasons: firstly, to ensure registration of the service provider in the appropriate category; secondly, to ascertain the date of commencement of taxability; thirdly, to know the rate of applicable service tax; fourthly, to determine the right to claim exemptions, abatements, CENVAT credit and rebates appropriately.

4.2 Section 65A which specified the principle governing the classification of taxable services, codified the norm that a more specific description must override the less specific one and that in the case of composite services, the service must be classified in accordance with its essential character. Moreover, 65A contained a residuary clause which stated that where the aforementioned provisions cannot be applied, the service must be classified under the category that appears first in the numerical order. The actual administration of Section 65A, over a period of time, relied on various ad hoc ruling of courts, on classification. Section 65A was replaced by the concept of bundling, in the year 2012, which provided principles for classification of mixed services and composite services.

4.3 Under the positive list approach to taxation of services being followed in India for more than twenty years now, services were taxed at a uniform rate theoretically; but value of the taxable service was adjusted by way of statutory abatements on which uniform tax rate was applied. In Harmonized System of Classification for goods, maintained by the World Customs Organization, now followed all over the world for levy of Customs duty, the classification is mainly used for levy of differential rate of duty. But in the case of services, classification has not been used for differential levy. Services being intangible and many a times available along with goods, disputes will be innumerable. “Criteria for distinction of similar items with different rates are not found easily” [2]. Even in the case of goods, countries trying to reduce the number of rates, so that legal disputes on correct classification can be minimized.

4.4 In the Indian scenario, as the taxable services increased in number, with each passing year, accounting codes for revenue collection which were allotted by the Comptroller & Auditor General of India(C&AG), came to be used for identifying the taxable services read with other definitions in section 65(105) of the Finance Act, 1994. When the new approach to taxation of services (based on the negative list) came to be introduced in the year 2012, as a preparation for introduction of Goods and services Tax (GST), there were 119 taxable services, for which 476 (119 X 4) accounting codes were available in all, to monitor the payment of service tax, penalty, other payments including interests and deduct refund. In the accounting code system, 0044- the first four digit of the code specifies ‘tax on services’ and the next four digits mark the particular taxable service.

4.5 The organization of accounting codes in the positive list of taxation was based on the seriatim of extension of levy on various services. Though section 65A, ceased to be operational from 1st July 2012 (with the introduction of negative list based levy), vide circular No. 165/16/2012-ST dated 20.11.2012, descriptions of the positivist list of taxable services and the corresponding accounting codes were continued, along with a residuary entry “Other taxable services”, for the purpose of registration and payment of service tax.

4.6 Accounting code based classification(SAC)in services, has given rise to many problems and issues: (i) the codes for tax/interest(other)/penalties/deduct from refunds do not follow any logic since it was allotted for accounting the revenue collections, by the C&AG, on need basis; (ii) over the years, no systematic method for expansion of the tax base has been adopted, though it is evident that some of the descriptions of services have been borrowed from international standards of classification pertaining to activity and products; (iii) the descriptions of services given to represent each accounting codes, reflects a policy dilemma between old and new approach to taxation of services; (iv) the absence of a logical scheme of classification and categorization of services has resulted in proliferation of errors and innumerable legal disputes; (v) similar services brought under

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tax net at different point of time led to dispute over the taxability, effective date of levy, applicability of abatement from taxable value/tax exemption, etc.; (vi) the expansion of tax base under the positive list approach was not sectoral, therefore the codes seriatim are also not sector – wise;(vii) related service of a particular sub-sector does not have a sub-code and gets covered under the Business Auxiliary Service, which is not a sector by itself. Though Business Auxiliary Service or Business Support service was defined in the statute on taxation of services, it was more used as a residual category to classify services not classifiable elsewhere; (viii) classification principles similar to that of the international classification systems were super imposed on locally made definitions of taxable services, which were overlapping and hence led to legal disputes before the tribunals and courts. International classification systems use descriptions of services for hierarchical arrangement but not definitions.

4.7 Even though the negative list based levy largely obviates the need for description of services, descriptions continue to exist in certain areas such as section 66D of the Finance Act, 1994 - Negative list of services, section 66E - Declared list of services, Rule 2A, 2B and 2C of Valuation Rules, 2006, Rule 6 of Service Tax Rules, 1994, mega exemption notification no. 25/2012-ST dated 20.06.2012, abatement notification - 26/2012-ST dated 20.06.2012, reverse charge mechanism - Rule 2(1)(d) of Service Tax Rules, 1994 read with Notification No. 30/2012-ST dated 20.06.2012; place of provision of service Rules, 2012 and Cenvat Credit Rules, 2004. The absence of a proper scheme of classification code has extended legal disputes into the negative list regime as well.

V. SERVICES - FUTURE OF CLASSIFICATION IN THE CONTEXT OF GST

5.1 Services Accounting Codes (SAC) is against the very principle of GST. Since at the point of payment of tax, it insists on classification. For an ideal GST, generally classification of goods and services is not required, since rate will be uniform on the broadest possible tax base. When classification is ‘referred to’ in the GST parlance, it refers to classification of goods and services, since, (i) for the purpose of differentiating goods and services, and (ii) in the case of services, ‘place of consumption’ needs to be identified, by a special set of Rules. Goods have to be necessarily distinguished from services, since in all VAT/GST systems, separate rules exist for determination of the place of consumption in services.

5.2 Present system of services accounting code (SAC) based classification, does not have any legal backing, in service tax law. However, it insists on correct classification at the point of payment of tax. This poses a serious challenge to the compliance and ease of doing business. Wrong accounting code in the tax payment challan implies the wrong classification as well or even a misdeclaration of service provided or received. If an accounting code is mentioned wrongly, by a service tax payer, when the payment is made, a person may not easily get a refund or adjustment. Correction of the wrong accounting code becomes next to impossible, without a refund and re-payment. In effect, under the guise of accounting codes, the present system of classification is actually, managed by the banks, at the point of payment of service tax. Taxpayer has to choose from the description of services listed under the accounting codes at the time registration, which continues to be in use for payment of tax and filing of Return. If a proper description is not available under the accounting codes, taxpayer has to opt for residual category, which results in clubbing. Due to clubbing, the present system of accounting codes hampers even a reliable statistical analysis of tax collections.

5.3 For compliance purposes, it is mandatory that the taxpayer should correctly mention the accounting code, at the time of payment of tax, in the tax payment challan. Thus, compared to duty payment in the case of Customs or Central Excise, tax payment in the case of service tax, is tedious and onerous, for a taxpayer. While making Central Excise duty payment through a bank challan, a taxpayer is not expected to classify the goods or even mention the specific commodity description; but in contrast a service taxpayer, at the point of payment of service tax is expected to specify the correct accounting code of the taxable service towards which payment is being made. Similarly, while paying customs duty in the bank challan, classification of the imported goods is irrelevant. But in the case of services, at the point of payment of duty, correct classification is most important, since tax payment codes actually implies an exercise of a conscious choice of classification from among different services (though such choice of correct classification, is not legally required). In the accounting code based classification of services, there is a hidden presumption that reliable data on tax payment can be obtained only at the point of payment of tax, through the banks, which calls for critical scrutiny. Refunds arising from service tax payments under incorrect accounting codes, and re-payments under correct codes are not taken into account, for the purpose of statistical analysis.

5.4 Under GST, if services accounting code based classification will be used, there may be a rapid proliferation of accounting codes, making service tax payment, very tedious for the taxpayer. Since CGST, SGST and IGST needs to be captured separately, for each service, there will be 9 codes, and altogether, 120 x 9 will be 1080 codes. Even after this, under the residual code, namely “all other services” (other than the 119), the clubbing will be substantial, for which it may not be possible to get sufficient sectoral data for analysis.

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Considering the fact that GST will be collected on a much broader tax base, than it is today, there will be a need to know, the services which go into the 'residual category'.

5.5 Making classification mandatory at the point of payment of tax, while presenting the tax payment challan in the bank, is unique to India, not found in any other part of the world. Classification, can be in the invoice or in the Returns but certainly not in the tax payment challan, presented in the bank for debiting the service tax from the taxpayer’s account. Since GST is for lowering taxes (because it is levied on a broader tax base) and simplification of compliance (by elimination of classifications), classification at the point of payment of tax, based on accounting code, would directly hamper the efficient operation of GST.

VI. CONCLUSION

In the light of the above discussions, it is abundantly clear that, a robust, easy to follow classification system is necessary, for an efficient operation of Goods and Service Tax. If such a classification system, is broadly in alignment with International classification systems, as discussed in part-I and National classification systems designed for the purpose of economic statistics, as discussed in part-II, it would enable comparison and also support international trade negotiations.

REFERENCES


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