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About the Tragic Fate of the Regional Judiciary in Russia (History and Modern State)

By A.M. Tsaliev

Abstract- Based on the comparative historical and comparative legal analysis, the author examines the judicial system of the national state and legal formations of Russia. The features of the judicial system and legal proceedings in one of the national-state autonomous formations of the North Caucasus - North Ossetia are indicated. The social significance of the constitutional (charter) courts of the constituent entities of the Russian Federation is noted, the need for which is recognized both at the scientific and practical levels, since they solve not only institutional problems, but also those associated with the formation of a federal state. The article criticizes the federal legislative norm on the abolition of these judicial authorities and the possibility of creating instead constitutional (statutory) councils under the legislative bodies of the constituent entities of the Russian Federation, the goals and objectives of which are not defined, and the status proposed by it violates the well-known legal principle - the prohibition to be a judge in one's own case.

Keywords: federal rule of law; constitution of russia, constituent entities of the russian federation; national-state formations; regional state power; constitutional (statutory) courts; justices of the peace.

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About the Tragic Fate of the Regional Judiciary in Russia (History and Modern State)

О ТРАГИЧЕСКОЙ СУДЬБЕ РЕГИОНАЛЬНОЙ СУДЕБНОЙ ВЛАСТИ В РОССИИ

(История и Современность)

A.M. Tsaliev

Abstract- Based on the comparative historical and comparative legal analysis, the author examines the judicial system of the national state and legal formations of Russia. The features of the judicial system and legal proceedings in one of the national-state autonomous formations of the North Caucasus - North Ossetia are indicated. The social significance of the constitutional (charter) courts of the constituent entities of the Russian Federation is noted, the need for which is recognized both at the scientific and practical levels, since they solve not only institutional problems, but also those associated with the formation of a federal state. The article criticizes the federal legislative norm on the abolition of these judicial authorities and the possibility of creating instead constitutional (statutory) councils under the legislative bodies of the constituent entities of the Russian Federation, the goals and objectives of which are not defined, and the status proposed by it violates the well-known legal principle - the prohibition to be a judge in one's own case.

The constitutional provision concerning the inclusion of justices of the peace in the federal judicial system is considered to be erroneous, since this testifies to the complete centralization of the judiciary power, the deprivation of regional state power by one of its branches that administers justice taking into account local characteristics, but in accordance with the Constitution of the Russian Federation and federal legislation. The necessity of preserving the completeness of state power of the constituent entities of the Russian Federation with the aim of sustainable and stable state development of the Russian Federation is substantiated.

Keywords: federal rule of law; constitution of russia, constituent entities of the russian federation; national-state formations; regional state power; constitutional (statutory) courts; justices of the peace.

Introduction

В федеративном государстве, а таковым признала себя Россия в ст. 2 своей Конституции, судебная власть существует как на федеративном, так и на региональном уровне. Она является также обязательной, но самостоятельной ветвью государственной власти, организуемой на основе известного принципа разделения властей по горизонтали. Такое судоустройство нацелено на сбалансированный учет интересов федеральной и региональной власти, сохранение полноты государственной власти в субъектах РФ без чего невозможно эффективное решение стоящих перед ними задач в федеративном государстве.

В царский и в советский периоды, особенно в первые его два десятилетия, этому принципу разделения государственной власти по вертикали придавали большое значение, в чем можно убедиться на примере судебной власти и органов ее осуществляющих в национально-государственных автономных образованиях. Так, в Северной Осетии были организованы и осуществляли правосудие избираемые гражданами посреднические (третейские), местные, сельские, горские, шариатские суды, народные и Главный суд как высшая судебная инстанция. Большинство из них, за исключением последних двух действовали и в царский период. Они осуществляли правосудие на основе норм обычного – неписаного права, которое, как материальное, так и процессуальное право, формировалось на основе народных обычаев. Оно имело весьма развитый характер, в частности в Осетии. В связи с этим обычное право стало предметом исследования признанных отечественных и зарубежных ученых европейского уровня. Причем его нормы носили строго обязательный характер в индивидуальном и общественном сознании. Еще в конце XIX века известный ученый, академик В.Б. Пфафф отмечал, что *осетинские обычаи действуют со всей силой неизменных законов природы, не позволяющих ни малейшего отступления от них и ни малейшего исключения* [Пфафф 1871: 169].

Наряду с нормами обычного права действовали нормы мусульманского права, на основе которых осуществляется шариатское судопроизводство, получившие широкое

Author: Head of the Department of Constitutional Law, the North Caucasian Institute of Mining and Metallurgy, Doctor of Law, Professor, Honored Lawyer of the Russian Federation, Chairman of the Constitutional Court of the Republic of North Ossetia-Alania (2001-2017), retired. Presidium Member of the Council of Judges of the Russian Federation. Russian Federation, Republic of North Ossetia-Alania, Vladikavkaz. e-mail: aronaron666@mail.ru

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распространение в национальных районах России с мусульманским населением, в том числе, в небольшом районе Северной Осетии, поскольку большая часть ее населения исповедует православие. Правосудие осуществлялось кадием – мусульманским судьей, возглавляющим шариатский суд и единолично осуществляющим судопроизводство. Со временем в процессе их деятельности между представителями царской администрации и населением возникали острые противоречия. Особенно это имело место в первые месяцы установления Советской власти, когда ее ставленники попытались грубо игнорировать сложившиеся нормы права, в частности, когда стали упразднять шариатское судопроизводство, которое к тому времени имело более чем двухсотлетнюю историю существования. Это привело к тому, что в начале 1918 г. в соседней республике, в Кабарде муллы приняли энергичные меры к захвату власти и настояли на том, чтобы восстановили шариатское судопроизводство [Цалиев 2003].

Новая власть Северо-Кавказских национально-государственных образований объективно оценила сложную политическую ситуацию, сложившуюся в результате игнорирования роли и значения шариатских судов в судопроизводстве того периода. Поэтому 4 марта 1918 г. во Владикавказе на II Съезде народов Терской области его делегаты приняли следующую резолюцию: «Каждому народу предоставляется право организовать свои народные суды, творящие правосудие согласно народным обычаям и нравам». Такое решение в судоустройстве России означало признание региональной специфики в государственном строительстве. Оно было поддержано на федеральном уровне, о чем свидетельствует выступление И.В Сталина 17 ноября 1920 г. на II Съезде народов Терека во Владикавказе с докладом «О советской автономии Терской области», где он заявил: «Если будет доказано, что нужен шариат, пусть будет шариат. Советская власть не думает объявить войну шариату».

В указанный период правосудие начали осуществлять также народные суды, которые в соответствии с Положением о народном суде РСФСР от 21 октября 1920 г., в отличие от сегодняшнего законодательства, избирались общим собранием районных Советов и действовали в пределах района. Высшей судебной инстанцией для них были *Главныесуды* в губернияхи автономных республиках, назначаемые ЦИК этих государственных образований и утверждаемые Президиумом ВЦИК по заключению Верховного Суда РСФСР.

Народные судьи на основании ст. 109 Конституции СССР 1936 г. стали избираться гражданами района на основе всеобщего прямого и равного избирательного права при тайном голосовании. Краевые, областные суды и суды автономных образований, являющиеся судами второй инстанции избирались соответствующими Советами народных депутатов. Принцип выборности судей сохранялся весь советский период и стал основой формирования судейского корпуса. Согласно судоустройству правосудие осуществляли районные суды и суды автономных республик, краев и областей. Они фактически представляли региональную судебную власть как подсистему федеральной судебной власти и тогда можно было говорить о действительном судебном федерализме, в отличии от сегодняшней действительности.

Формированию такой судебной системы должна была бы способствовать объявленная в 1991 г. Концепция судебной реформы в РСФСР и поддержанная Верховным Советом РСФСР децентрализация властных функций. Отметим также, что учреждение института мировых судей в свое время мотивировали необходимостью дальнейшей демократизации и дальнейшей децентрализации судебной власти и необходимостью развития федеративных отношений. Кроме того, в Постановлении III (внеочередного) Всероссийского съезда судей от 25 марта 1994 г. «О концепции судебной системы Российской Федерации» была предусмотрена двухуровневая судебная система: федеральная и местная судебная система. Наличие последней вполне логично обосновывалось тем, что «если есть судебная система государства в целом, должны быть ее составные части – судебные системы, что является прямым отражением сущностной природы России как федерации» [Саликов 2013: 19].

Однако, со второй половины 1990-го года, под лозунгами демократизации и федерализации страны, в системе судебной власти начались противоположные процессы. Идеологическую основу под них подводили ученые либерал-демократы, обслуживающие интересы определенных групп. Чего стоит, в частности, приведенная ниже критика правосудия советского периода: «Судебные приговоры и решения согласовывались с парткомом» [Судебная власть 2003: 4]. Подобного рода явно нелепые и клеветнические измышления составляли основу принимаемых законодательных и организационно-управленческих решений относительно формирования судебной власти и лиц ее осуществляющих. Некоторые ученые-юристы,

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наряду с практическими работниками, чаще всего из сферы судебной власти, имеющиеся ошибки в осуществлении правосудия объясняли в специализированных журналах, особенно в СМИ, вмешательством местной власти на принимаемые судебные решения и это в то время, когда законодательство ныне не предоставляет им никаких полномочий по вопросам судебной власти.

Конечно, нельзя исключать подобные случаи, в том числе и в других органах государственной власти. Однако низкий уровень своей профессиональной деятельности, допускаемые в ней ошибки. Беспринципность нельзя сводить к вмешательству извне. Тем более судьям, обладающим независимостью, несменяемостью и неприкосновенностью на конституционном уровне и в специальных федеральных законах об их статусе. Отмечу, что таких правовых гарантий не имеют специалисты и должностные лица законодательной и исполнительной власти. Несмотря на это, с целью повышения объективности правосудия было предложено расширить материальные и социальные гарантии судьи, еще более усилить его правовой статус, казалось бы хорошо. Но для этого начали проводить линию на централизацию судебной власти, подчинения ее только федеральной власти, что имеет место в Украине и за это ее критикуем, а мы сами что творим?

Уверен, что в этом процессе централизации власти существенную роль сыграла часть той политической и бизнес-элиты, которая с целью личной безопасности решила результаты своего незаконного обогащения закрепить судебными решениями, имеющими окончательный и обязательный характер. Это стало особенно очевидным в середине 1990-х годов – периоде наиболее активной приватизации природных ресурсов (земли, нефти, газа, драгоценных металлов и т.д.) и созданных в советский период богатств. Тогда централизации судебной власти начали придавать законодательный характер.

В 1996 г. был подготовлен проект Федерального конституционного закона «О судебной системе Российской Федерации», в соответствии с которым все суды, начиная с районного, были включены в федеральную судебную систему. Вводился принцип назначаемости всех федеральных судей Президентом РФ. Против такой централизации и демократизации судебной власти выступили не только многие специалисты, но и руководители субъектов РФ. И не без оснований, поскольку в других федеративных государствах к федеральным судебным органам относятся только суды высшей инстанции. Поэтому в конце 1996 г., когда принимался данный федеральный конституционный закон, члены Совета Федерации, коими тогда являлись руководители законодательной и исполнительной власти субъектов РФ, дважды голосовали против. Более того, на открытом заседании Совета Федерации, посвященном данному вопросу, Президент Республики Северная Осетия-Алания А.Х. Галазов публично заявил: «Я в начале хотел поддержать данный закон, но поскольку происходит открытое выкручивание рук, буду голосовать против». Однако Б. Ельцин привык считаться только со своим мнением и любые логически обоснованные аргументы его не убеждали, поскольку он был уличный политик, лишеный аналитических способностей.

Было проведено третье заседание Совета Федерации, и лишь с помощью опросных листов, невиданный в истории случай, законопроект получил одобрение. Не согласившись с предложенной в нем централизацией судов и «с целью восстановления существующих раннее прав, а также повышения роли региональных органов государственной власти в регулировании организации и деятельности судов, функционирующих на территории субъектов Российской Федерации», высшие должностные лица 16 республик Российской Федерации осенью 1998 г. направили в Конституционный Суд Российской Федерации запрос о проверке конституционности положений ч. 1-4 ст. 4, ч. 6 ст. 13, ч. 3 ст. 20 и ч. 3 ст. 21 Федерального конституционного закона «О судебной системе Российской Федерации». Но Конституционный Суд РФ в своем Определении от 12 марта 1998 г. признал конституционность данного Закона, что стало одним из первых его политико-правовых решений.

Согласно ч. 4 ст. 4 указанного ФКЗ судами субъектов РФ были признаны конституционные и уставные суды (далее – к/у суды) и мировые судьи. Но последние по существу являются федеральными судами, поскольку: основу их организации и деятельности составляют федеральные законы; финансируются они из федерального бюджета; функционируют при федеральных судах, составляя первичное звено судов общей юрисдикции; осуществляют правосудие именем Российской Федерации. Квалификационный экзамен и рекомендацию на должность судьи сдают и получают от федеральных судей. В соответствующих региональных законах о них говорится, что полномочия, порядок деятельности мировых судей устанавливаются Конституцией РФ, ФКЗ «О судебной системе Российской Федерации». Кроме того, Федеральный закон от 19 июня 2004 г. «О внесении изменений в статьи 1 и 10 Федерального закона «О мировых судьях в

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Российской Федерации» внес существенные изменения в правовом регулировании статуса мировых судей субъектов Российской Федерации. Вопреки здравому смыслу, региональный законодатель утратил право устанавливать дополнительные гарантии материальной и социальной защиты для мировых судей, а также дополнительные требования к кандидату на должность мирового судьи, определять порядок отправления правосудия даже по административным делам. Усматривая в этом необоснованные попытки централизации судебной власти и нарушения судебного федерализма в федеральном государстве, я неоднократно выступал в центральной печати, в иных публичных выступлениях, в том числе на «круглом столе» по вопросам института мировых судей, организованного 16 апреля 2015 г. Комитетом Совета Федерации по федеративному устройству, региональной политике, местному самоуправлению с целью сохранения статуса мировых судей как института судебной власти субъектов Российской Федерации. Увы, когда закон одолевает политика, тогда законность уступает место революционной целесообразности, имевшей место в 1920 годы в России.

Полное разрушения судебного федерализма и окончательная централизация судебной власти и лишение ею субъектов РФ произошло последними конституционными новеллами. Так, согласно ч. 3 ст. 118 Закона Российской Федерации «О поправке к Конституции Российской Федерации» от 14 марта 2020 г. № 1-ФКЗ «О совершенствовании регулирования отдельных вопросов организации и функционирования публичной власти» мировые судьи были включены в федеральную судебную систему. При этом федеральный законодатель продолжает именовать их «мировыми судьями субъектов РФ», дабы придать видимость наличия региональной судебной власти и тем самым попытаться обеспечить принцип разделения государственной власти на три ее ветви и сохранить благопристойный вид. Это напоминает мне известный библейский сюжет с фиговым листочком…

Региональную судебную власть реально представляли и могут представлять к/у суды субъектов РФ. Учеными-специалистами, в том числе автором этих строк, и практическими работниками в области конституционного правосудия на протяжении почти трех десятилетий в печати и на различных международных научно-практических конференциях приводились многочисленные аргументы в пользу организации и функционирования органов региональной конституционной юстиции, которые никем не оспаривались. Неслучайно, в Постановлении VIII Всероссийского съезда судей от 17 декабря 2016 г. «О состоянии судебной системы Российской Федерации и основных направлениях ее развития в 2012-2016 годах» по моему настоянию, как члена Президиума Советв судей РФ, было включено положение о том, что незаслуженно без внимания остаются конституционные (уставные) суды субъектов РФ, которые играют роль дополнительного гаранта прав граждан, в том числе на судебную защиту.

Несмотря на вышеизложенное, согласно ст. 5 Федерального конституционного закона от 8 декабря 2020 г. «О внесении изменений в отдельные федеральные конституционные законы», субъекты РФ лишены указанных органов власти. В прошлом, в соответствии с ч. 1 ст. 27 ФКЗ «О судебной системе Российской Федерации», они могли создаваться «субъектом Российской Федерации для рассмотрения вопросов соответствия законов субъекта Российской Федерации, нормативных правовых актов органов государственной власти субъекта Российской Федерации, органов местного самоуправления субъекта Российской Федерации конституции (уставу) субъекта Российской Федерации, а также для толкования конституции (устава) субъекта Российской Федерации». Поскольку эти суды ныне упразднены, то следует считать, что *поставленные перед ним задачи решены или уже не актуальны*. И то и другое утверждение не соответствуют действительности, ибо они столь же постоянны, сколь законотворческий процесс, где неизбежны ошибки, как и в любом ином виде трудовой деятельности.

Эту простую истину следует осознать российским законодателям, как и то, что там *где есть законодательная власть, должна быть и контрольная власть*. Причем «каждому уровню законодательной власти должен соответствовать свой уровень конституционного контроля». К тому же, неслучайно Председатель Государственного Совета Республики Татарстан Ф.Х. Мухаметшин в своем выступлении 23 июня 2003 г. на заседании Президиума Совета законодателей России, посвященном практике создания и проблемам законодательного регулирования деятельности конституционных (уставных) судов субъектов Российской Федерации, заявил, что «сложившаяся в условиях российского федерализма система организации власти в субъектах Федерации объективно диктует необходимость формирования региональной конституционной юстиции».

По-видимому, Государственная Дума РФ, пытаясь избежать упреков в централизации государственной власти политического капитала, а также с целью восполнить образовавшийся вакуум в системе региональной контрольной власти,

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предусмотрела в ст. 7 ФКЗ «О внесении изменений в отдельные федеральные конституционные законы» норму о том, что «Субъекты Российской Федерации вправе принять решение о создании конституционных (уставных) советов, действующих при законодательных (представительных) органах государственной власти субъектов Российской Федерации». Такая абсурдная, гибридная, к тому же декоративная правовая норма ни в одном зарубежном законодательстве не предусматривается, поскольку абсолютно не соответствует известному принципу разделения государственной власти. Кроме того, в отличие от к/у судов субъектов РФ, не определены цели и задачи конституционных (уставных) советов субъектов РФ.

В связи с этим возникает вопрос к авторам данной федеральной законодательной нормы, а также к депутатам, голосовавшим за ее принятие: чем они руководствовались и чем мотивировали свое решение о возможности создания нового государственного органа, о его целесообразности? К тому же налогоплательщик вправе знать, с какой целью он должен финансировать создание и деятельность любого орган государственной власти. В данном случае эта проблема особенно остро встает, поскольку в любом законодательном органе субъекта РФ уже существует комитет по законодательству, а также правовой отдел, которые дают заключение о конституционной законности законопроекта, чем должны заниматься предполагаемые Конституционные советы субъектов РФ.

В чем же смысл создания предлагаемого подразделения регионального Парламента? На мой взгляд, законодательная норма о конституционных (уставных) советах субъектов РФ в нынешнем виде может стать предметом прокурорского реагирования или коллективного обращения председателей к/у судов субъектов РФ в Конституционный Суд РФ на предмет соответствия ее Конституции РФ. При этом следует иметь в виду, что специалисты, исследовавшие основания прекращения деятельности к/у судов субъектов РФ, пришли к однозначному выводу, «что существующая практика их упразднения является не только незаконной, но и не конституционной» [Современная модель государственной власти в Российской Федерации 2019: 132].

Новый государственный орган имеет право на существование и он учрежден в зарубежных странах, но как самостоятельный квазисудебный орган власти. Отмечу, что еще в конце XIX века предлагалось создание специализированного, децентрализованного и самостоятельного органа контрольной власти [Муромцев 1898: 25-30]. Как писал один из отцов Конституции США А. Гамильтон, законодательный орган не должен быть судьей в собственном деле [Гамильтон 2000: 504]. Со временем был сформулирован общеправовой принцип, согласно которому «никто не может быть судьей в собственном деле». Федеральный орган законродательной власти данный принцип проигнорировал, не пытаясь даже мотивировать свое решение.

На мой взгляд, в сложившейся ситуации создание самостоятельных конституционных (уставных) советов – единственный путь, по которому должны следовать субъекты РФ. Это необходимо не только для того, чтобы соблюсти, но и способствовать реализации федеральных конституционных положений о федеративном правовом характере Российского государства (ст. 1 Конституции РФ); осуществление государственной власти в Российской Федерации на основе ее разделения на законодательную, исполнительную и судебную (ст. 10 Конституции РФ); осуществление государственной власти субъектами РФ через образуемые ими органы государственной власти (ст. 11 Конституции РФ); организация системы органов государственной власти республик, краев, областей, городов федерального значения, автономной области, автономных округов субъектами Российской Федерации самостоятельно в соответствии с основами конституционного строя Российской Федерации (ст. 77 Конституции РФ).

Проанализировав данные конституционные нормы, известный профессор М.А. Митюков, долго проработавший в должности представителя Президента РФ в Конституционном Суде РФ, отметил, что «С точки зрения историко-правового и буквального прочтения федеральной Конституции конституционное правосудие должно было быть неотъемлемым и необходимым элементом организации государственной власти в каждом субъекте Российской федерации».

Многократные официальные обращения, как коллективные (Обращение участников расширенного заседания Консультативного Совета председателей органов конституционного (уставного) контроля в РФ к Президенту РФ, депутатам Государственной Думы и членам Совета Федерации, Федерального Собрания РФ, высшим должностным лицам, органам законодательной и исполнительной власти субъектов РФ от 18 января 2001 г.), так и индивидуальные (Цалиев А.М. Обращение к Генеральному прокурору Российской Федерации Ю.Я. Чайке. // Журнал конституционного правосудия № 5 (53) 2010.), в адрес федеральных и региональных органов государственной власти с предложением ускорить образование к/у судов субъектов РФ не дали положительного результата. В данном вопросе эти

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судебные органы, а также те, кто ратовал за их повсеместное создание в регионах, особую надежду возлагали на инициативу Председателя Конституционного Суда России В.Д. Зорькина. Но увы, не были использованы возможности Конституционного Суда РФ в развитии законодательства в части образования органов конституционного контроля, хотя многие федеральные конституционные судьи на теоретическом уровне высказывались в пользу их образования, а на практическом не предприняли никаких мер.

В результате сложившихся обстоятельств, говоря языком аллегории, уже объявлены похороны конституционных (уставных) судов субъектов РФ и тем самым судебного федерализма, но согласно указанному ФКЗ, этот процесс должен завершиться к 1 января 2023 года. Однако если учесть неуемное и консолидированное желание федеральной судебной и законодательной власти, то этот процесс должен завершиться раньше. Неслучайно он так подробно и тщательно расписан в указанном ФКЗ. Об этом свидетельствует и тот факт, что проект Федерального закона «О конституционных (уставных) судах субъектов РФ», инициированный и разработанный мною и поддержанный Парламентом Республики Северная Осетия-Алания и внесенный в Государственную Думу РФ 8 мая 2014 г. через два дня без всякого обоснования и церемоний получил резко отрицательную оценку от ее специалистов, опубликованной уже 12 мая в г. «Комерсанть». Такая оперативность не всегда удается даже спецслужбам.

С учетом изложенного очевидно, что происходит необоснованное ограничение региональной государственной власти. А если еще учесть, что на местах большинство органов государственной власти представлены территориальными органами федеральных государственных органов в лице правоохранительных, силовых, контрольно-надзорных и иных органов власти, то вполне естественно возникает риторический вопрос о полноте государственной власти субъектов РФ, особенно республик, которые в Конституции РФ, хотя и в скобках, названы государством и их отличии по правовому статусу от муниципальных образований, являющихся административно-территориальными единицами, где также организованы и функционируют представительные и исполнительные органы власти. Отмечу, что игнорирование конституционно-правового статуса национально-государственных образований, история которых насчитывает не одно столетие – очень опасная тенденция в государственном строительстве федеративного государства. Она может, при соответствующих внутренних и внешних обстоятельствах, детонировать общественно-политическую ситуацию в стране, чему есть многочисленные исторические примеры.

Таким образом, налицо необходимость совершенствования организации государственной власти с учетом известного принципа разделения ее на три ветви власти и оптимального распределения властных полномочий между Российской Федерацией и составляющих ее субъектов с тем чтобы придать российскому государству устойчивость и стабильность в своем развитии.

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Critical Analysis of the Positive Theories of Private Liberty Penalty

By Helena Frade Soares

Pontifícia Universidade Católica de Minas Gerais

Abstract- The positive theories of private liberty penalty attribute to it a various of manifests functions, most of them, contradictory and incompatible with each other, but which have as a common trait the idea of social defense. The present work sought to carry out a critical analysis of the theories that attribute to the private liberty penalty a manifest function that would be able to justified its legitimation.

Keywords: private liberty penalty. functions. legitimation. social defense.

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Critical Analysis of the Positive Theories of Private Liberty Penalty

Análise Crítica das Teorias Positivas da Pena Privativa de Liberdade

Helena Frade Soares

Abstract- **The positive theories of private liberty penalty attribute to it a various of manifests functions, most of them, contradictory and incompatible with each other, but which have as a common trait the idea of social defense. The present work sought to carry out a critical analysis of the theories that attribute to the private liberty penalty a manifest function that would be able to justified its legitimation.**

Keywords: private liberty penalty. functions. legitimation. social defense.

Resumo- **As teorias positivas da pena privativa de liberdade atribuem a ela uma gama de funções manifestas, em sua maioria, contraditórias e incompatíveis entre si, mas que possuem como traço comum a ideia de defesa social. Buscou-se com o presente trabalho realizar uma análise crítica das teorias que atribuem à pena uma função manifesta que serviria como justificativa para a sua legitimação.**

Palavras-chave: pena privativa de liberdade. funções. legitimação. defesa social.

I. Introdução

Ao analisarem a legislação penal como base de interpretação do direito penal e os principais modelos decisórios a ele inerentes, Zaffaroni e Nilo Batista (2011) explicam que o modelo punitivo não é eficaz para a resolução dos conflitos, vez que ao prisonizar uma pessoa, apenas suspende o conflito no tempo, não o resolvendo. Neste modelo, é a dinâmica social quem soluciona os conflitos. Isto porque ela atua sobre o *ser sendo* dos homens de forma que com o passar do tempo eles se reinventam, mudam, se refazem. E neste interstício temporal, o conflito permanece suspenso no intuito de que os seus protagonistas também se modifiquem, e que o conflito caia no esquecimento, sendo pouco importante se durante tal período novos conflitos surjam ou não deste esquecimento. Complementam ainda que não existe sociedade em que todos os conflitos sejam solucionados, havendo aqueles em que uma resposta formal se torne indispensável por meio de sua institucionalização.

A partir daí constroem a crítica de que o poder estatal concede às suas instituições funções manifestas e latentes. As primeiras podem ser entendidas como aquelas funções expressas, públicas e declaradas. Já as segundas devem ser entendidas como aquelas não declaradas, ou seja, as funções reais exercidas pelas instituições. Discorrem que, quanto às funções manifestas

> Trata-se de uma necessidade republicana; um poder orientador que não expresse para que é exercido não pode submeter-se ao juízo da racionalidade. Porém, em geral, essa função manifesta não coincide por completo com o que a instituição realiza na sociedade, ou seja, com suas *funções latentes* ou reais (ZAFFARONI, BATISTA, 2011. p.88).

Dentro da análise que aqui se buscará realizar, temos que as teorias positivas da pena privativa de liberdade atribuem a ela uma gama de funções manifestas, em sua maioria, contraditórias e incompatíveis entre si, mas que possuem como traço comum a ideia de defesa social. Para a construção da crítica pretendida, serão analisadas duas vertentes das teorias positivas da pena, que aqui nos interessam: teorias absolutas e teorias relativas.

II. Teorias Absolutas

Através das Teorias Absolutas da pena, ensina Luiz Regis Prado que (2008) *"as concepções absolutas têm origem no idealismo alemão, sobretudo com a teoria da retribuição ética ou moral de Kant"* (PRADO, 2008, p. 489). Segundo esta doutrina a pena seria uma retribuição ética "*que se justifica por meio do valor moral da lei penal violada pelo culpado e pelo castigo que consequentemente lhe é imposto"* (FERRAJOLI, 2014, p.237).

Já em Hegel temos que a pena seria a negação do delito que, por sua vez, é a negação do direito. Assim, ao se negar o delito, o que se está fazendo em verdade é reafirmar o direito violado. Trata-se de uma retribuição jurídica "*justificada pela necessidade de restaurar o direito por meio de uma violência, em sentido contrário, que reestabeleça o ordenamento legal violado"* (FERRAJOLI, 2014, p.237).

Para as Teorias Absolutas da pena, portanto, a pena tem sua justificativa unicamente no delito praticado, sendo ela um fim em si mesma tendo como base a ideia de retribuição, de compensação, reparação ou castigo pelo mal causado pelo delito.

Author: Mestre em Direito Penal pela Pontifícia Universidade Católica de Minas Gerais – PUC Minas. Especialista em Ciências Penais pelo IEC – PUC Minas. Advogada graduada pela PUC Minas.
e-mail: helena.frade.soares@gmail.com

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Eventuais efeitos preventivos dela decorrentes, são alheios à sua essência.

Ponto em comum entre as teorias kantiana e hegeliana é que ambas centram-se na ideia de retribuição e reconhecem que, entre o delito praticado e a pena aplicada, deve haver uma relação de igualdade. No entanto, a hegeliana difere-se da primeira por buscar a construção de uma teoria positiva da retribuição, dotada de racionalidade por levar em consideração os aspectos jurídicos da pena e não morais, buscando separar direito e moral.

Importante destacar que

> Para os partidários das teorias absolutas da pena, qualquer tentativa de justificá-la por seus fins preventivos (razões utilitárias) – como propunham, por exemplo, os penalistas da ilustração – implica afronta à dignidade humana do delinquente, já que este seria utilizado como instrumento para a consecução de fins sociais. Isso significa que a pena se justifica em termos jurídicos exclusivamente pela retribuição, sendo livre de toda consideração relativa a seus fins (*pena absoluta ab effectu*). (PRADO, 2008, p.490)

Segundo Zaffaroni e Nilo Batista (2011) as teorias absolutas tendem a "*a) retribuir b) para garantir externamente a eticidade c) quando uma ação objetivamente a contradiga d) infligindo um sofrimento equivalente ao injustamente produzido (talião)*" (ZAFFARONI; BATISTA, 2011, p. 115).

No entanto, a nosso ver, a justificação da pena pela retribuição é insustentável. De início, por ser baseada na ética e na metafísica, não é passível de demonstração empírica. Por outro lado, confunde direito e natureza, já que a pena seria a reafirmação de uma ordem natural violada. E mais, conforme crítica realizada por Luigi Ferrajoli (2014), é justamente a impossibilidade de reparação que distingue a sanção na esfera penal daquelas de natureza civil. O equívoco teórico das teorias absolutas, ou retributivas,

> (...) consiste na confusão que tais doutrinas fazem entre dois problemas completamente diversos, ou seja, entre o problema da "finalidade geral justificadora" da pena, que não pode deixar de ser utilitarista e voltada para o futuro, e aquele da sua "distribuição", que, por sua vez, ocorrendo em bases retributivas, diz respeito ao passado, o que equivale a dizer, como proposto por Ross, entre o problema da "finalidade" da legislação penal e aquela da "motivação" com a qual a pena é imposta. (FERRAJOLI, 2014, p. 239).

Nilo Batista (2011) conclui de forma lúcida que "*a pena que se detém na simples retributividade, e portanto converte seu modo em seu fim, em nada se distingue da vingança*" (BATISTA, 2011, p. 97). Atualmente, a ideia de retribuição vem na roupagem da proporcionalidade entre pena e injusto culpável (PRADO, 2008).

III. Teorias Relativas

As Teorias Relativas são conhecidas por atribuírem à pena um caráter utilitarista, seja atuando sobre os cidadãos que não delinquiram (prevenção geral), seja sobre os que delinquiram (prevenção especial), com fundamento na necessidade de se impedir o cometimento futuro de delitos. Para essas teorias, a pena seria um instrumento preventivo.

> (...) a concepção *preventiva geral* da pena busca sua justificação na produção de efeitos inibitórios à realização de condutas delituosas, nos cidadãos em geral, de maneira que deixarão de praticar atos ilícitos em razão do temor de sofrer a aplicação de uma sanção penal. (PRADO, 2008, p. 490).
>
> A *prevenção especial*, a seu turno, consiste na atuação sobre a pessoa do delinquente, para evitar que volte a delinquir no futuro (PRADO, 2008, p. 494).

Temos assim, que "*a concepção da pena enquanto meio, em vez de como fim ou valor, representa o traço comum de todas as doutrinas relativas ou utilitaristas*" (FERRAJOLI, 2014, p. 240).

a) Prevenção Geral Negativa

A prevenção geral negativa possui como lógica a dissuasão intimidatória defendendo que a pena seria capaz de dissuadir aqueles que não delinquiram, mas se sentem tentados a fazê-lo. É ela nada mais do que o efeito dissuasivo estabelecido pela lei penal para evitar a sua própria infração, ou mesmo garantir-lhe eficácia. Cesare Beccaria (2015) asseverava que "*as penas que ultrapassam a necessidade de conservar o depósito da salvação pública são injustas por sua natureza; e tanto mais justas serão quanto mais sagrada e inviolável for a segurança e maior a liberdade que o soberano conservar aos súditos*" (BECCARIA, 2015, p. 24).

A prevenção geral tem suas raízes na teoria da coação psicológica de Anselm Von Feuerbach, elaborada no século XIX, segundo a qual a pena preveniria a prática de delitos intimidando ou coagindo psicologicamente os indivíduos. Para esta teoria, o delinquente seria um indivíduo racional que, através de uma lógica de mercado, seria capaz de analisar os prós e contras do comportamento delitivo, calculando o risco da pena como se calculasse o risco inerente ao de um negócio.

Não tem por escopo o delinquente como indivíduo, sendo dirigida à generalidade dos cidadãos. Em decorrência do seu caráter abstrato, a prevenção geral negativa, tem seu foco dirigido ao delito e não ao delinquente individualmente, e este aspecto permitiria, em tese, a proteção deste contra tratamentos desiguais e de cunho corretivo e terapêutico. Salo de Carvalho (2015) ao analisar a nova fundamentação das sanções penais, especificamente quanto aos fundamentos do poder de punir, dispõe que na prevenção geral negativa "*a concretização individualizada do* ius puniendi *no infrator geraria no corpo social não apenas respeito pelas normas ditadas pelo Estado como temor pela punição, elementos que desenvolvidos na cultura diminuiriam os índices de criminalidade*" (CARVALHO, 215, p.208).

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No entanto, algumas críticas devem ser tecidas. Segundo lecionam Zaffaroni e Nilo Batista (2011)

> Parte-se aqui de uma concepção mecânico-racional do humano, como um ente que em qualquer circunstância realizaria a comparação custo-benefício. Na base dessa antropologia está uma lógica de mercado, que chegou a formular-se expressamente, com aplicação do modelo econômico ao estudo do delito, pressupondo no infrator um sujeito racional que maximiza o benefício esperado de sua conduta por sobre o custo. (ZAFFARONI; BATISTA, 2011, p. 117).

Alessandro Baratta (2011) ao analisar a Escola Liberal Clássica do direito penal e a criminologia positivista assevera que para esta corrente o delito, como comportamento, advinha da livre vontade do indivíduo e não de características patológicas. Dessa forma, do ponto de vista da liberdade e da responsabilidade moral o delinquente não poderia ser considerado como diferente dos demais indivíduos. Essa visão racionalista do delinquente gera como consequência a defesa de que o direito penal e a pena não deveriam ser considerados como meios de intervenção sobre o sujeito, buscando modificá-lo ou curá-lo, mas sim como meio de defesa social. A pena, então, seria um dissuasivo, uma contramotivação em face do crime.

A realidade nos revela que ainda que se consiga verificar, empiricamente, a existência da função preventiva geral negativa da pena, esta não é absoluta ou significativa, já que existem indivíduos que não se sentem dissuadidos, por ela, a praticar delitos. Mesmo sabendo das consequências jurídicas decorrentes da prática de um ato delituoso, temos que parcela da população continua a praticá-los, não sendo possível aferir de forma absoluta a sua presença na prática, em especial se contraposta aos elevados índices de criminalidade e reincidência existentes.

Afora tal fato, tem-se também que, em que pese a prevenção geral negativa oferecer proteção contra abusos por parte do Judiciário, não o faz em relação aos abusos legislativos. Isto porque, se é função da pena intimidar os indivíduos, impedindo-os à prática de novos delitos, e mesmo assim verificando que tal intimidação não é eficaz, a única saída, na lógica da prevenção geral negativa, seria elevar o *quantum* das penas aplicadas aos crimes, aumentando sua severidade. Se essa lógica for seguida à risca, ou seja, se a eficácia da pena for tida como diretamente ligada à sua severidade, o ponto final seria a cominação da pena de morte para todos os crimes. E ainda assim, acreditamos que a sua verificação não seria absoluta.

Resta evidente que "*a lógica da dissuasão intimidatória propõe a clara utilização de uma pessoa como recurso ou instrumento empregado pelo estado para seus próprios fins: a pessoa humana desaparece, reduzida a um meio a serviço dos fins estatais"* (ZAFFARONI, BATISTA, 2011, p. 120).

Por certo, existem pessoas que se sentem dissuadidas à prática de atos delituosos em decorrência do caráter intimidatório que a pena possui. Porém, o que a realidade nos mostra, é que não é a prevenção geral negativa o fator decisivo que impede a prática de crimes. Por outro lado, não se pode defender que todos aqueles em conflito com a lei exerceriam uma comparação custo-benefício, conforme a concepção mecânico-racional defendida por esta corrente.

b) Prevenção Geral Positiva

Da mesma forma como verificado quanto às Teorias Absolutas a função de prevenção geral positiva da pena confunde direto e moral. Costuma-se dividi-la em duas versões: a versão eticizada (Welzel) e a versão sistêmica (Jakobs).

A versão sistêmica de Jakobs encontra a justificativa da pena "*enquanto fator de coesão do sistema político-social em razão da sua capacidade de reestabelecer a confiança coletiva abalada pelas transgressões, a estabilidade do ordenamento e, portanto, de renovar a fidelidade dos cidadãos no que tange às instituições."* (FERRAJOLI, 2014, p. 256).

Já a versão eticizante, proposta por Hans Welzel, defende que o poder punitivo deve fortalecer os valores ético-sociais através da punição de infrações. Ou seja, trata-se de fortalecer a atuação de acordo com o direito e o ordenamento jurídico. Sendo a missão do direito penal a proteção de bens jurídicos, uma vez sendo estes lesionados, justifica-se a aplicação de um castigo, não para protegê-los, já que o agir estatal é posterior à lesão, mas sim para assegurar a vigência dos valores ético-sociais de caráter positivo (ANDRADE; SIQUEIRA, 2016).

"*Ambas as versões se combinaram na fórmula segundo a qual a tarefa do direito penal é a proteção de bens jurídicos mediante a proteção de valores ético-sociais de ação elementares"* (ZAFFARONI; BATISTA, 2011, p.124). Assim, tem-se que, em ambas, a pena exerceria uma função positiva uma vez que reafirmaria o ordenamento jurídico, fortalecendo a confiança normativa (PRADO, 2008). Como bem sintetizam Zaffaroni e Nilo Batista (2011) a função manifesta da prevenção geral positiva é que

> A criminalização estaria fundamentada em seu efeito positivo sobre os não-criminalizados, não porém para dissuadi-los pela intimidação, e sim como valor simbólico produtor de consenso, e, portanto, *reforçador de sua confiança no sistema social em geral (e no sistema penal em particular).* (ZAFFARONI; BATISTA, 2011, p.121).

Ainda, Luigi Ferrajoli (2014) explica que a pena, sob este ponto de vista, teria a função de integração social através do reforço geral da fidelidade com o Estado, além de promover a conformidade de

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condutas. O delito seria como que uma imagem ruim para o Estado e a pena o caminho para neutralizá-la.

Ao analisar o nascimento da moderna ciência do direito penal na Itália, em especial o sistema jurídico elaborado por Francesco Carrara, Alessandro Baratta (2011) explica que, para o autor italiano, o fim da pena não seria o de retribuição, tampouco de emenda, *"(...) mas a eliminação do perigo social que sobreviria da impunidade do delito. A emenda, a reeducação do condenado, pode ser um resultado acessório e desejável da pena, mas não sua função essencial, nem o critério para sua medida*". (BARATTA, 2011, p.37).

Por reduzir o indivíduo à condição de um mero subsistema físico e psíquico, as teorias que vêm na pena a função de prevenção geral positiva correspondem a modelos de direito penal de cunho autoritário e máximo. "*O direito penal converte-se numa mensagem meramente difusora de ideologias falsas"* (ZAFFARONI; BATISTA, 2011, p.123).

A lógica por eles defendida acaba por fundamentar o que chamamos de Direito Penal Simbólico que tem como consequência a expansão do Direito Penal e não a sua contração, através da falta de técnica e de conhecimento jurídico do legislador que aceita os discursos irracionais derivados do clamor público e midiático.

Camila Andrade e Leonardo Siqueira (2016) asseveram com propriedade que

> Longe de produzir (ou mesmo de pretender produzir) a segurança de bens jurídicos, o sistema penal, por meio de sua função simbólica, modifica não a realidade, mas a imagem da realidade. A democracia, comunicação entre cidadãos e seus representantes, é substituída pela tecnocracia, surgindo, daí, a política como espetáculo, direcionada a um público cuja opinião – e não suas necessidades – se pretende atender. (ANDRADE; SIQUEIRA, 2016, p.95).

Discursos irracionais voltados à criminalidade provam justamente o contrário do que as teorias da prevenção geral positiva prescrevem. O que se tem, graças ao esforço do sensacionalismo, é ao contrário, um aumento na desconfiança coletiva em relação ao ordenamento jurídico que é tido como brando e que deixa impunes pessoas autoras de atos delitivos.

A visão social leiga, quanto ao Sistema Criminal, corresponde a uma mistura das funções preventivas gerais da pena. Passa-se a se exigir do Estado uma resposta mais severa para os autores de atos delituosos para que, assim, a confiança e coesão social sejam nele reconhecidas.

c) Prevenção Especial Positiva

Ao contrário das doutrinas da prevenção geral, que são dirigidas à totalidade dos indivíduos, a prevenção especial volta sua atenção para a pessoa do delinquente, individualmente considerada, com o fim de evitar que ela volte a delinquir no futuro.

Partindo da ideia principal de periculosidade do indivíduo delinquente, a prevenção especial positiva segue, em um primeiro momento, o modelo moral e, posteriormente, o modelo médico-policial na tentativa de justificar o poder punitivo "*atribuindo-lhe uma função positiva de melhoramento do próprio infrator"* (ZAFFARONI; BATISTA, 2011, p.125). Conforme leciona Luigi Ferrajoli (2014), o fim da pena, para essa linha de pensamento, depende da personalidade do delinquente no sentido de ser ela corrigível ou não, tratável ou não. Considera-se a pena como um bem necessário ao delinquente.

Para as doutrinas pedagógicas da pena, que não abandonaram as tradições católicas da expiação, a *"finalidade da pena é a reeducação e a recuperação moral do condenado, partindo do pressuposto de que o mesmo seja um sujeito imoral que deve redimir-se"* (FERRAJOLI, 2014, p. 248). Têm inspiração no princípio do livre-arbítrio desenvolvendo uma velha concepção de *poena medicinalis,* formulada por Platão e reestruturada por Santo Tomás, defendendo que os delinquentes não só podem ser punidos, como também, podem ser obrigados pelo Estado a se tornarem indivíduos bons (FERRAJOLI, 2014).

Com uma abordagem distinta, as doutrinas terapêuticas da defesa social vêm no delinquente um ser inferior, de certo modo pervertido e degenerado, sendo que a pena e as medidas de segurança, em especial, equivaleriam a um instrumento de defesa social contra os perigos que aquele delinquente representa. Luigi Ferrajoli (2014) explica que

> As doutrinas positivistas da defesa social partem de princípios filosóficos diametralmente opostos, e perseguem a prevenção especial dos delitos conferindo às penas e medidas de segurança, mais especificamente, a dupla finalidade de curar o condenado (partindo do pressuposto de que ele seja um indivíduo doente) e/ou segregá-lo e neutralizá-lo em razão do pressuposto de que ele também seja perigoso. (FERRAJOLI, 2014, p. 248).

As doutrinas terapêuticas, ao contrário das pedagógicas de emenda, representam a versão penal e criminológica do determinismo positivista, onde o homem não é visto como um ser dotado de liberdade, detentor de livre-arbítrio portanto, mas sim um indivíduo sujeito inteiramente às leis naturais.

Ao analisar a escola positiva e a explicação patológica do delinquente, a partir do trabalho de Cesare Lombroso, Alessandro Baratta (2011) assevera que o delito foi reconduzido a uma concepção determinista da realidade na qual o delinquente encontra-se inserido e da qual o seu comportamento é, ao fim, sua expressão. Aqui também é possível verificar que a concepção da pena está diretamente ligada à ideia de defesa social. Também Salo de Carvalho (2015) esclarece que

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> Ao contrário do postulado liberal-contratualista, o positivismo criminológico nega a culpabilidade ao sustentar como evidência empírica demonstrável não ser o crime ato humano resultado de vontade livre do sujeito, mas derivado de causas alheias, de fatores endógenos ou exógenos que anulam qualquer vontade, pois determinantes (CARVALHO, 2015, p.272).

O determinismo, assim como o behaviorismo, nega toda subjetividade do homem já que o comportamento é resposta aos estímulos recebidos pelo ambiente externo. Ou seja, o indivíduo será bom se os estímulos contraídos forem bons e será mau se os estímulos contraídos forem maus.

Segundo Antonio Gomes Penna (2001) o behaviorismo consagra

> (...) o fechamento de um silogismo histórico, cuja premissa maior foi enunciada por Descartes, quando afirmou que os animais seriam autômatos; a premissa menor, com Darwin, afirmando que o homem é um animal e, logo, emitindo-se com a conclusão de Watson, ao declarar que, em decorrência lógica, o homem é autômato, criando-se, a partir daí, a *ciência do comportamento.* (PENNA, 2001, p.18).

Diante disso, basta o conhecimento dos estímulos incidentes sobre o indivíduo para se chegar aos efeitos por eles produzidos, ou seja, o comportamento, de modo que aquele é desprovido de qualquer autodeterminação.

Por fim, de cunho menos expressivo, a terceira das doutrinas correcionalistas, defende que a prevenção especial positiva seria alcançada através da aplicação da pena de forma individualizada e diferenciada, tomando-se em consideração as peculiaridades e necessidades de cada delinquente. Ou seja, trata-se de analisar caso a caso.

De toda sorte, todas as três doutrinas correcionalistas têm em comum o fato de que os delitos são tidos como uma patologia e a pena como uma terapia política capaz de curar os delinquentes. Salo de Carvalho (2015) assevera que

> Neste quadro, a sanção estatal deve adquirir sentido positivo, promovendo não somente coação aos não desviantes (temor pela autoridade), mas fornecendo meios para que o criminoso não incorra novamente no delito e seja integrado na e pela comunidade. O exercício do direito de punir passa a ser norteado pela ideia de prevenção especial positiva, consolidando as teorias de ressocialização, recuperação e regeneração do criminoso elaboradas pela criminologia positivista (paradigma etiológico-social). (CARVALHO, 2015, p.208).

A pena aplicada exclusivamente com base nas doutrinas da prevenção especial positiva dá lugar a sérios inconvenientes. Em primeiro lugar, tomando o delito como uma patologia, abre-se espaço para a flexibilização de direitos e garantias fundamentais sob o pretexto terapêutico onde a pena seria vista como tratamento e um bem para quem a sofre.

> (...) uma pena fundada exclusivamente nas exigências preventivo-especiais poderia afrontar o princípio da dignidade da pessoa humana, na medida em que a necessidade de correção ou de emenda acarretasse a submissão obrigatória (forçada) a um programa de ressocialização (PRADO, 2008, p.495).

No mesmo sentido, complementa Luigi Ferrajoli (2014) que

> Consequentemente, tais doutrinas, em supondo uma concepção do poder punitivo como um "bem" metajurídico – o Estado pedagógico, tutor ou terapeuta – e, simetricamente, do delito como "mal" moral ou "doença" natural ou social, são as menos liberais e antigarantistas que historicamente tenham sido concebidas, e, deste modo, justificam modelos de direito penal máximo e tendencialmente sem limites. (FERRAJOLI, 2014, p.252).

Camila Andrade e Leonardo Siqueira (2016) explicam que

> A ideia de ressocialização é própria de um direito penal do autor, para o qual o fato é tão somente um ponto de partida à análise personalista e moralizante de um "ser" e não de um "agir" – perspectiva policialesca que não convive com a noção de Estado (efetivamente) de Direito. (ANDRADE; SIQUEIRA, 2016, p.106)

Por outro lado, se a prevenção especial positiva leva em consideração a periculosidade do delinquente, na sua (i)lógica, este poderia ficar submetido indeterminadamente ao poder punitivo até que sua periculosidade cesse. Ou caso não cesse, sem prazo definido. Alessandro Baratta (2011), ao analisar o sistema de Ferri, fomenta esta crítica asseverando que

> A consequência politicamente tão discutível e discutida desta colocação é a duração tendencialmente indeterminada da pena, já que o critério de medição não está ligado abstratamente ao fato delituoso singular, ou seja, à violação do direito ou ao dano social produzido, mas às condições do sujeito tratado; e só em relação aos efeitos atribuídos à pena, a melhoria e reeducação do delinquente, pode ser medida sua duração. (BARATTA, 2011, p. 40).

E não só. Inexistindo a possibilidade de verificação de periculosidade em um indivíduo que cometeu um delito, pela visão preventiva especial positiva, não haveria necessidade de correção daquele indivíduo delinquente, o que o eximiria de sofrer a aplicação de uma pena, ainda que tenha ele praticado um delito. Ou seja, ao Estado caberia abrir mão da aplicação de uma pena em face de um indivíduo que, ainda que não perigoso, cometesse um delito.

Asseveram Zaffaroni e Nilo Batista (2011) que as prisões fazem parte do que denominamos de instituições totais e que,

> Não se ignora seu efeito regressivo, ao condicionar o adulto a controles próprios da etapa infantil ou adolescente, eximindo-o das responsabilidades inerentes à sua idade cronológica. É insustentável a pretensão de melhorar mediante um poder que impõe a assunção de papéis

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> conflitivos e que os fixa através de uma instituição deteriorante, na qual durante prolongado tempo toda a respectiva população é treinada reciprocamente em meio ao contínuo reclamo desses papéis (ZAFFARONI; BATISTA, 2011, p.126).

A noção de instituições totais decorre do trabalho de Erving Goffman (1974) intitulado "Manicômios, Prisões e Conventos"[1], originalmente publicado em 1961, e que consiste na análise da situação do internado, seja em manicômios, seja em prisões ou em conventos.

Para o autor, instituições totais podem ser consideradas como aquelas em que há um fechamento total com o mundo exterior. Fechamento este que é simbolizado por uma barreira à relação social e à proibição, daqueles nelas insertos, de saída e contato com aquele mundo. Ainda segundo Goffman (1974), a característica básica das instituições totais é a organização burocrática de grupos completos de pessoas para se garantir o controle das necessidades humanas. Dentro de tais instituições a atividade principal é orientada pela vigilância existindo uma divisão básica entre um grande grupo controlado de indivíduos e uma pequena equipe de supervisão. A relação entre esses grupos é limitada e acaba por gerar uma concepção estereotipada e hostil entre eles.

d) Prevenção Especial Negativa

Ao contrário da doutrina da prevenção especial positiva, que vê no delinquente uma personalidade passível de correção, para a doutrina da prevenção especial negativa, o delinquente é visto como alguém incorrigível e a pena assumiria um caráter negativo de eliminação ou neutralização daquele indivíduo. A pena teria, portanto, "*por finalidade tornar o condenado inapto à prática de novos delitos, isto é, neutralizá-los, desestruturando sua potência e minando qualquer possibilidade de rebelião ou resistência"* (ANDRADE; SIQUEIRA, 2016, p. 100).

Também tomando por base a periculosidade do delinquente, a função de prevenção especial negativa tem por escopo segregar e neutralizar aquele indivíduo sob o pressuposto de que seria ele perigoso à sociedade. Assim, diferentemente da prevenção especial positiva, aqui não se busca o tratamento do delinquente ou a sua ressocialização, mas tão somente a sua retirada, a sua eliminação do corpo social.

> Em geral, ela não se enuncia como função manifesta exclusiva, mas sim em combinação com a anterior: quando as ideologias re fracassam ou são descartadas apela-se para a neutralização e eliminação (ZAFFARONI; BATISTA, 2011, p.1257).

Como a realidade tem reiteradamente demonstrado, as ideologias re são cercadas pelo fracasso e a neutralização acaba por se tornar a saída nefasta da pena sendo aplicada de forma arbitrária.

O que importa neste cenário não é mais a pessoa do delinquente portanto, mas sim o corpo social que se vê livre, ainda que temporariamente, do mal que aquele indivíduo representa para toda a sociedade. E tal cenário acarreta clara violação aos direitos e garantias fundamentais, em especial, o da dignidade da pessoa humana.

IV. Considerações Finais

Buscou-se com o presente trabalho proceder a uma análise crítica das terias positivas da pena privativa de liberdade, ou seja, das teorias que atribuem à pena uma função manifesta que serviria como justificativa para a sua legitimação.

Como visto, referidas teorias atribuem à pena uma gama de funções manifestas, em sua maioria contraditórias e incompatíveis entre si, mas que possuem como traço comum a ideia de defesa social.

As Teorias Absolutas, ao defenderem ser a pena um fim em si mesmo, cujo pilar é a ideia de retribuição, compensação, reparação ou castigo pelo mal causado pelo delito, negam qualquer utilidade àquela. Desse modo, repelem qualquer justificativa que se baseie em seus fins preventivos (utilitários) e, consequentemente, afrontam a dignidade da pessoa humana que ocupa, nesta concepção, uma posição meramente instrumental já que utilizada apenas para fins sociais.

Já as Teorias Relativas, ao contrário, atribuem à pena um caráter utilitarista cujo fundamento reside na necessidade de se evitar a prática de futuros delitos, ou seja, para elas a pena seria um instrumento preventivo.

Para a vertente da prevenção geral negativa, a pena seria capaz de dissuadir aqueles que não delinquiram, mas se sentem tentados a fazê-lo, utilizando-se de uma lógica de dissuasão intimidatória. Esta corrente, como visto, apresenta diversos inconvenientes. A um, porque aplica um modelo econômico ao estudo do delito por trabalhar com uma concepção mecânico-racional do ser humano, o que a nosso ver não é verdadeiro. A dois, porque se a princípio ofereceria uma proteção contra abusos do Poder Judiciário, não o faz em relação ao Legislativo já que por sua lógica, a eficácia da dissuasão da pena estaria diretamente ligada à sua severidade. Ou seja, se seguida à risca, o ponto final seria a cominação da pena de morte para todos os delitos.

No que tange à vertente da prevenção geral positiva, tem-se que ela atribui ao Direito Penal a função de proteção de bens jurídicos. Logo, nesta linha, a pena exerceria uma função positiva uma vez que reafirmaria o ordenamento jurídico, fortalecendo a confiança normativa. A lógica por ela defendida acabada por fundamentar o que chamamos de Direito Penal

[1] Título original em inglês: *ASYLUMS – Esseys on the social situation of mental patients and other inmates.*

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Simbólico que tem como consequência a expansão do Direito Penal e não a sua contração, através da falta de técnica e de conhecimento jurídico por parte do legislador que aceita os discursos irracionais derivados do clamor público e midiático.

Ao contrário das doutrinas da prevenção geral, que são dirigidas à integralidade dos indivíduos, a prevenção especial volta sua atenção para a pessoa do delinquente, individualmente considerada, com o fim de evitar que ela volte a delinquir no futuro.

A vertente positiva parte da ideia principal de periculosidade do indivíduo delinquente e da pena como um bem necessário a ele. Os delitos são tidos como uma patologia e a pena como uma terapia política capaz de curar os delinquentes. Os inconvenientes de tal vertente são claros. Tomando-se o delito como uma patologia, abre-se espaço para a flexibilização de direitos e garantias fundamentais sob o pretexto terapêutico onde a pena seria vista como tratamento e, portanto, um bem para quem a sofre. Ainda, por ser baseada na periculosidade do indivíduo delinquente, este poderia ficar submetido indeterminadamente ao poder punitivo até que sua periculosidade cesse. Ou caso não cesse, sem prazo definido. E não só. Inexistindo a possibilidade de verificação de periculosidade em um indivíduo que cometeu um delito, pela visão preventiva especial positiva, não haveria necessidade de correção daquele indivíduo delinquente, o que o eximiria de sofrer a aplicação de uma pena, ainda que tenha ele praticado um delito.

Por fim, para a doutrina da prevenção especial negativa o delinquente é visto como alguém incorrigível e a pena assume um caráter negativo de eliminação ou neutralização daquele indivíduo. Também partindo da ideia de periculosidade, defende a segregação e neutralização do indivíduo delinquente sob o pressuposto de que ele seria perigoso para a sociedade. Assim, não busca o tratamento do delinquente ou sua ressocialização, mas tão somente a sua retirada, a sua eliminação do corpo social. Posicionamento este que viola frontalmente os direitos e garantias fundamentais, em especial, o da dignidade da pessoa humana.

Assim, o que se tem é que, as teorias positivas, que buscam atribuir à pena uma função manifesta, não cumprem com o que propõem e não são capazes de justificar a sua legitimidade de forma plena dentro do pensamento político-jurídico.

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Participatory Budgeting in Nigerian Local Government Administration: A Panacea for Rural Development in Nigeria

By Dr. Harrison Otuekong Ataide & Dr. Enebong, Martins Tom
Obong University

Abstract- The Government annual budget is a public proclamation of its projected and actual expenditures, which provide vibrant suggestion of where a State sets its primacies. Therefore, this article seeks to show how participatory budgeting offers citizens an ample opportunity to study about government procedures and deliberate, discuss, debate, and stimulate allocation of public funds in the local government councils. Through a descriptive historical analysis, this study shows that the local government's current budget reveals that citizens have no knowledge of how local government council is committing itself to in its policy declarations and what it does in its budgetary allocations. The extremely 13 complicated, technical and 14 esoteric nature of the budget-making process and documents does not allow citizens to participate, have any say in it or 16 monitor the process 11, it 18 is the position of this paper that participatory budgeting programs are implemented at the behest of governments, citizens, nongovernmental organizations (NGOs), and civil society organizations (CSOs) to allow citizens to play a direct role in deciding how and where resources should be spent 20.

Keywords: *budget, participation, local government, nigeria.*

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Participatory Budgeting in Nigerian Local Government Administration: A Panacea for Rural Development in Nigeria

Dr. Harrison Otuekong Ataide [α] & Dr. Enebong, Martins Tom [σ]

Abstract- The Government annual budget is a public proclamation of its projected and actual expenditures, which provide vibrant suggestion of where a State sets its primacies. Therefore, this article seeks to show how participatory budgeting offers citizens an ample opportunity to study about government procedures and deliberate, discuss, debate, and stimulate allocation of public funds in the local government councils. Through a descriptive historical analysis, this study shows that the local government's current budget reveals that citizens have no knowledge of how local government council is committing itself to in its policy declarations and what it does in its budgetary allocations. The extremely 13 complicated, technical and 14 esoteric nature of the budget-making process and documents does not allow citizens to participate, have any say in it or16 monitor the process 11, it 18 is the position of this paper that participatory budgeting programs are implemented at the behest of governments, citizens, nongovernmental organizations (NGOs), and civil society organizations (CSOs) to allow citizens to play a direct role in deciding how and where resources should be spent 20. It is a tool for educating, engaging, and empowering citizens and strengthening the demand for good governance.19 It also enhanced transparency and accountability. The study revealed that participatory budgeting helps reduce government inefficiency and curb clientelism, patronage, and corruption. Besides recommending encouragement 23 of citizen's participation in budgeting, community-based organizations, civil society and 25 the media should be involved and be stimulated 26 to play the role of a conscience keeper on behalf of the poor and marginalized in the society 27.

Keywords: budget, participation, local government, nigeria.

I. Introduction

Budget preparations are not systems that are mechanically run by legal frameworks and rules once set up. They are more like organic processes consisting of a myriad of rules and regulations and in, addition, unwritten ideas, traditions, approaches and methods formed over time. They are also highly political, having a direct impact on the distribution of income, wealth and35 power across society. A budget 37 can be defined as a document from the Government that sums up its revenue and expenditure for a fiscal year, which runs from January 1 to December 31. It is a financial plan which spells out the government's estimated revenue and proposed expenditure for a fiscal year. According to section 81 of the Constitution of the Federal Republic of Nigeria 1999 (CFRN 1999) "The President shall cause to be prepared and laid before each House of the National Assembly (NASS) at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year". Government revenue trends, policies and payment issues for the fiscal year are stated in the government budget. In addition, it gives a detailed spending plan as it creates its financial activities to provide important goods and services like education, healthcare, power, roads and security to the people. As a fiscal policy tool, the government budget influences many facets of the economy, for instance, prices of goods and services, interest rates, exchange rate and the rate of growth of the economy.

Since resources at the disposal of the government are not always sufficiently available enough to serve the needs and opportunities which the Government would like to serve or seize, budgeting remains the tactical instrument for both decision-making as well as allocation of resources. According to Isaksen (2007) budget is a government proposal. It is not a record of revenue and spending that has taken place, but a record of the intentions of the government. The budget expresses the objectives and aspirations of the government; it reflects the government's policy priorities and expectations about the performance of the economy, and it translates these into revenue proposals and expenditure allocations.

The budget process is the political and technical procedures of budget making and budget implementation. The budget process includes the setting of priorities, the construction of the budget by the administration, and the political approval of the budget by the legislature. It includes the implementation of the budget provisions, and revision and reporting throughout the budget year and the final auditing.

The domain of government budgeting is an ongoing process of decision-making, in which different state bodies will have the leading role at each stage. In most countries, there is a main annual budget process, but most countries also have a budget revision after six months. The budget cycle is a process that includes at

Author α σ: Department of Political Science/Public Administration, Obong University, Akwa Ibom State, Nigeria.
e-mails: harrisonataide@yahoo.com, martinseneobong@gmail.com

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least these four stages: drafting of budget, approval of the budget execution of budget and monitoring and evaluation of the budget.

The budget process comprises the political, bureaucratic and technical procedures of budget making and budget implementation. The budget process includes the setting of priorities, the construction of the budget by the administration and the political approval of the budget by the legislature; the implementation of the budget provisions; revision and reporting throughout the budget year and the final auditing.

Normatively, the budget process in a democratic society such as Nigeria should reflect the aims and aspirations of the people. According to Wampler (2000:1) budget process should, therefore:

- Be participatory, and involve the citizens in its formulation.
- Be transparent, so that governments can be held accountable for their priorities and over-and underspending.
- Get the priorities right, so that it takes into account the basic needs of most of the people and the country's most pressing development issues.

Participatory Budgeting aims to infuse the values of citizen involvement into the most basic and frequently the most formal procedure of governance—the distribution of resources through the budgeting process. Citizen involvement can foster accountability, transparency, and more effective distribution of resources. Proponents of participatory budgeting also see it as a way of challenging the exclusion of non-elite groups from the process. Wampler (2000:1) describes the ambitious and multiple goals of participatory budgeting:

> These programs are designed to incorporate citizens into the policy-making process, spur administrative reform, and distribute public resources to low-income neighbourhoods. Social and political exclusion is challenged, like low income and traditionally excluded political actors are allowed to make policy decisions. Governments and citizens initiate these programs to citizen participation in budgeting: promote public learning and active citizenship, achieve social justice through improved policies and resources allocation, and reform the administrative apparatus.

Through participatory budgeting, community members directly decide how to spend funds of the public budget in participating government. Accordingly, the community members can propose and vote on projects like improvements to schools, parks, libraries, public housing, and other public or community spaces.

In Nigeria, unfortunately, the process of budget preparation is not open to citizens, there is no such formal mechanism in the Local Government Council that invites and involves citizens to participate in the budgeting process. Despite many Acts and Policies on decentralization, the Local Government Council budget-making process continues to remain a secret bureaucratic exercise. The esoteric language and presentation style of the budget documents prevents the public from understanding the real content and import of the documents. Even the local government legislators, who are supposed to influence the budget, do not possess the skills and information that would enable them to engage in the critical discourse of the matter or are focusing on what they gain from its presentation. As a result, the Executive acts as the sole decision-maker, deciding the expenditure priorities on its own. The role of citizens or civil society organizations is limited due to the lack of databases and information. The absence of any formal/informal space in which to participate, debate and discuss budget issues adds to the problem (Mishra, 2014).

Examination of the government budget allocation and spending priorities of the local government council budget preparation should be a participatory process that would encompass the critical needs of the poor and the marginalized. Opportunities for citizen engagement can be imagined, devised and applied in four functions of the government (Malena et al.; 2004): Policies and plans, budgets and expenditures, delivery of services and goods, and public oversight.

Although it is claimed that elected representatives play a role in a democratic system by discussing and deciding the priorities that are best suited to citizens' needs, there is a lack of real participation by these peoples' representatives.

Hence, this article seeks to explain the mystery surrounding the preparation, execution and evaluation of budget in the Local Government Council and the need to make government budget participatory in nature.

II. Literature Review

a) *Conceptual Explication*

The term public participation in the context of fiscal policy has not been unambiguously defined in the professional literature and is still vague (de Renzio and Wehner, 2015:4). The reasons for this could be the fact that the development of participation as a dimension of fiscal transparency is a relatively recent event and that numerous activities fall under its scope (Petrie, 2011: 26), but it could also be because of research dealing with this topic is scarce. For this paper, we used the definition by de Renzio and Wehner (2015: 9) who define public participation in the budgetary process as "a wide set of possible practices through which citizens, civil society organizations, and other non-state actors interact with public authorities to influence the design and execution of fiscal policies".

According to Bräutigam (2004:654), public participation in the budget can take many forms: it can

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be (a) direct (such as when citizens "meet, debate fiscal priorities, and forward their conclusions to decision-makers"), and (b) indirect (electing members of parliament). Fölscher (2010:41), furthermore, specifies the difference between consultative participation and empowered participation. In the case of the former, the government provides citizens and their representatives with "the opportunity to be heard, but there is no guarantee that participants will be heeded", meaning that "decision-makers have the freedom to agree with citizens or not". When it comes to the latter, the participants are "invested with decision-making power" (right) "and influence, such as having citizen representatives on boards that oversee local public services". Generally speaking, literature does not offer a list of forms of public participation in the budgetary process. This is partially due to their (growing) number, insufficiently clear differences, and scarce research on the topic.

Citizen participation occurs when citizens or their representatives (who are not elected officials) interact with and provide feedback to the government at the policy formulation or implementation stage of governance. Citizen participation is frequently characterized as an inevitable outcome of a logical movement from insulated, bureaucratic modes of governance to more open, transparent, and participatory approaches. Democratic theorists propose that current societal conditions and an understanding of the dynamics of individuals concerning their governments in liberal democracies make it even more likely that citizens will seek to involve themselves in public decisions through discourse (Fox and Miller 1996; Maier 1994; Wamsley and Wolf 1996).

Public participation operates as an external check on bureaucracies, whose power grew in the twentieth century. Recent proposals for participation appear equally distrustful of bureaucrats and elected officials, both of which are part of the "representative bureaucracy" (Barber 1986). Citizen participation refers to citizens or citizen representatives (who are not elected officials) interacting with and providing feedback to the government at the policy formulation or implementation stages of governance.

III. Theoretical Framework

There are very many theories about how governments' managers' characteristics might impact citizen involvement. Some scholars hold a "positive" perspective and believe that managers are likely to encourage citizen participation. One reason is that managers tend to be "modernizers" or public entrepreneurs who seek to experiment with scientific management tools (Berman and West, 1995; Feiock, 2003; Poister and Streib, 1989). Citizen participation in budgeting could be viewed as a management innovation. Another reason is that community building and participation have become a professional norm for management professionals in government. Therefore, appointed managers may emphasize citizenship values over technocratic values (Nalbandian, 1991; 1999). We can label this first perspective as the "citizen leadership" model.

Another perspective is "negative" in that it is concerned with the tension between professional administration and citizen involvement (DeSario & Langton, 1984; Fischer, 2000; Kweit & Kweit, 1981; Simonsen & Robbins, 2000). For instance, Fischer (2000) indicates that "the tension between professional expertise and democratic governance is an important political dimension of our time" (p. ix). As public problems become highly sophisticated in modern society, policy processes are increasingly dominated by professional experts.

Such technocratic dominance, however, is likely to hamper citizen participation because administrative decision-making based on expertise and professionalism may leave little room for participatory processes. We can call this perspective the "technocratic expert" model. From this perspective, one might argue that since budgeting is a central and complex management function (O'Tool & Marshall, 1988; Simonsen & Robbins, 2000), professional administrators may fear that citizen involvement reduces administrative efficiency, and, as a result, they may discourage citizen involvement in budgeting (Bland & Rubin, 1997).

The technocratic model echoes the writings on bureaucratic personality and bureaucratic experience. In Hummel's (1994) description, bureaucracies are in a "cold" environment in which employees are supposed to have no personal feelings, emotions, or judgments and treat various clients as cases without any distinction.

Following Hummel (1994), Alkadry (2003) contends that professional administrators become indifferent to citizen needs because of their bureaucratic personality. That is, their responsiveness to citizens is constrained by their inability to take action or their unwillingness to take action given that they are constantly watched by their supervisors and governed by strict rules and job descriptions. Alkadry (2003) and Hummel (1994) aim to build a general theory that treats all bureaucratic administrators as the same regardless of the levels of government. We can call their theory the "bureaucratic indifference" model. According to this model, city managers' personalities and behaviours are shaped by their professional experience in a way that their tendency toward citizen participation in the budget process is constrained by their inability and their unwillingness to involve citizens.

Yang and Callahan (2007) try to integrate the citizen leadership model and the technocratic expert model in examining the factors driving citizen

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participation in governments. In contrast to the bureaucratic indifference model, they suggest that chief administrative officers may internalize the professional values promoting community building and civic engagement as Nalbandian (1991; 1999) observes, and in turn, proactively seek citizen input.

However, Yang and Callahan (2007) acknowledge the technocratic expert model may also play a role, indicating that the city leadership model may explain better whether there are citizen participation activities while the technocratic expert model may explain better whether citizen input will make a difference in decision outcomes:

It is likely that professional managers treat involvement mechanisms as professional management tools and use them to obtain customer feedback and improve service quality…After the mechanisms are put into place, however, whether and how citizen input is used in strategic decisions depends on the political and institutional dynamics of a particular community. In particular, professional managers may fear that citizen involvement in strategic decisions will reduce their authority and power… (Yang & Callahan, 2007: 259).

IV. Existential Imperatives for Participatory Budgetary to the Citizens

a) Individual Citizens

Citizens have many incentives to participate in participatory budgeting programs. First, participatory budgeting increases their access to public decision-making activities. Public meetings and decision-making processes reduce the likelihood that overt, clientelistic means will be used to distribute goods. This is an obvious benefit to citizens who did not gain from clientelism under previous government regimes. The public nature of meetings empowers some citizens to speak out for the first time. This general sense of empowerment is strengthened even further if citizens can draw a direct connection between their participation efforts and policy outcomes.

A second important incentive for citizens is that they gain access to information. Informational meetings provide citizens with a broader understanding of government, governmental responsibility, policy, and policymaking. Budgets and policymaking are often viewed as "black boxes" in which inputs and outputs are unknown to all but a handful of government officials. Participatory budgeting programs provide a structure for citizens to gain the necessary information to develop a better understanding of their political and administrative environments. In addition to budgetary information, citizens gain access to technical information about subjects such as zoning and land-use laws. The complex sets of rules involved in these issues are often beyond the reach of the average citizen. Participatory budgeting programs offer the opportunity for citizens to work with officials in the bureaucracy to resolve legal and technical problems.

The third benefit of participatory budgeting for citizens is the direct relationship between participation and the quality of services provided. Citizens select public works, directly shaping their neighbourhoods. They approve technical plans, for the installation of sewer systems or the construction of new housing units, as well as oversee project implementation. In Belo Horizonte, all technical plans must be presented to neighbourhood forums.

After discussion and clarifications, which may require the plan to be redrawn, the neighbourhood forum must approve the plan. This helps ensure that contractors provide the goods and services they promised. This process is widely believed to improve the quality of services because it reduces the likelihood that contractors will try to cheat on their contracts.

b) Civil Society Organizations

The primary incentive for CSOs, such as social movements to participate in participatory budgeting is indirect. Since one of the criteria for the distribution of goods is the number of citizens who attend meetings, the more citizens CSOs can mobilize, the more goods and resources their neighbourhood is likely to receive. A relationship between mobilization and outcomes is established, strengthening the importance of CSOs.

A second reason why CSOs participate is that participatory budgeting programs provide them with the opportunity to build broader networks of supporters. Participation provides CSOs with contact with potential allies, increasing opportunities to build broader social and political coalitions.

Since many of the specific demands negotiated within participatory budgeting originated from associations around basic issues (housing or sewage problems), it is incumbent upon the associations to negotiate with other associations. One of the drawbacks of participatory budgeting discussed below is that there is an increased potential for competition among CSOs. Rather than create bonds of solidarity, contact can heighten conflict.

A third reason why CSOs participate is to influence policies. Neighbourhood associations shape the neighbourhood's infrastructure. Associations work with government technocrats and NGO specialists to design development plans. Issue-oriented social movements participate in participatory budgeting to shape broader public policy. The process allows them to work with government officials to influence short-term funding as well as long-term planning. The close working relationship provides issue-based social movements with many opportunities to influence policy outcomes. Of course, this relationship may not be wholly positive for the CSOs.

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Closer ties to the state have the potential to drastically alter the character and goals of the social movements. This is a tension that government officials and CSOs are continually forced to address.

c) Non-governmental Organizations

Participatory budgeting programs provide a mechanism for NGOs to work with citizens and the government to tackle pressing social problems. In some municipalities, NGOs play a direct role, sitting on a governing or oversight board or acting as a mediator between the government and participants. When NGOs play a direct role in the process, they tend to promote citizen empowerment and transparency in government.

In other municipalities, NGOs act in an advisory role, providing support to participants. Many NGOs have a staff of professionals with strong technical and administrative skills. Architects, accountants, social workers, and other specialists can understand policy proposals and their implications more easily than the average citizen. The NGOs' distance from the government allows them to promote the general values of participatory budgeting while keeping an eye on the government to guarantee that it is working for the citizens. One NGO in Porto Alegre, Cidade, publishes a monthly report on participatory budgeting for citizen-delegates and citizens in general. It monitors spending and policy decisions, acting as a watchdog as well as an advocate of the participatory budgeting program.

NGOs also play a prominent role in the initial empowerment or learning meeting. Because of their skill and experience in public education, NGOs are often contracted by the government to provide this service. This can create a certain tension between NGOs and participants because it blurs the role of the NGO.

d) Business Community

The business community may support participatory budgeting programs because these programs promote transparency, reduce corruption, and increase efficiency. While participatory budgeting programs do not inherently or necessarily involve fiscal reform, the increased attention on the budget often leads the government to take better care of the city's financial health. Better financial health is an indirect consequence of participatory budgeting programs.

Within the business community, some contractors and builders benefit directly. The selection of projects and the systematic ordering of the projects' implementation allow contractors to bid in an open and fair system. Small contractors benefit because many of the projects selected through the participatory budgeting process tend to be small. Contractors no longer pay kickbacks and bribes to ensure that their projects will be funded and implemented. Instead, the timing and order of the projects become part of the public record. Of course, businesses that benefited from closed and corrupt practices are not enthusiastic about participatory budgeting.

When participatory budgeting programs are consolidated as the principal policy-making method, business associations must participate to secure funding for projects. A neighbourhood business association that wants to have streets paved or lighting installed, for example, would have to organize its members to attend meetings to press their demands (Wampler, 2007).

V. Participatory Budgetary in Nigeria: A Panacea for Rural Development

According to Wampler (2007), participatory budgeting is a decision-making process through which citizens deliberate and negotiate over the distribution of public resources. Participatory budgeting programs are implemented at the behest of governments, citizens, non-governmental organizations (NGOs), and civil society organizations (CSOs) to allow citizens to play a direct role in deciding how and where resources should be spent. These programs create opportunities for engaging, educating, and empowering citizens, which can foster a more vibrant civil society.

Participatory budgeting also helps promote transparency, which has the potential to reduce government inefficiencies and corruption. Because most citizens who participate have low incomes and low levels of formal education, participatory budgeting offers citizens from historically excluded groups the opportunity to make choices that will affect how their government acts. Put simply, participatory budgeting programs provide poor and historically excluded citizens with access to important decision-making venues.

Participatory budgeting is noteworthy because it addresses two distinct but interconnected needs: improving state performance and enhancing the quality of democracy. It helps improve state performance through a series of institutional rules that constrain and check the prerogatives of the municipal government while creating increased opportunities for citizens to engage in public policy debates. It helps enhance the quality of democracy by encouraging the direct participation of citizens in open and public debates, which helps increase their knowledge of public affairs.

Improving state performance and enhancing the quality of democracy are desired goals, but they are not necessarily produced by participatory budgeting programs. Participatory budgeting programs have produced results that run the gamut from highly successful to very weak.

There is broad variation in how participatory budgeting programs function, which means that the effects of participatory budgeting on accountability, the decentralization of decision-making authority, and empowerment are conditioned by the local social,

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political, and economic environment. Participatory budgeting opens up obscure budgetary procedures to ordinary citizens and helps create a broader public forum in which citizens and governments discuss spending, taxation, and implementation. It is simultaneously a policy process that focuses on the distribution of resources and a democratic institution that enhances accountability, transfers decision-making authority to citizens, and empowers citizens.

Participatory budgeting programs confront social and political legacies of clientelism, social exclusion, and corruption by making the budgetary process transparent and public. Social and political exclusion is challenged, as low-income and traditionally excluded political actors are allowed to make policy decisions. By moving the locus of decision making from the private offices of politicians and technocrats to public forums, public meetings help foster transparency.

Participatory budgeting programs also serve as "citizenship schools," as engagement empowers citizens to better understand their rights and duties as citizens as well as the responsibilities of government. Citizens learn to negotiate among themselves and with the government over the distribution of scarce resources and public policy priorities.

When participatory budgeting programs function poorly in terms of policy outputs, there is still the potential for participants to enhance their knowledge of governmental responsibilities and citizens' rights, which can enhance their capacity to negotiate with and place demands on state officials. However, when participatory budgeting programs function poorly, increased cynicism about democracy, decentralization, and participation may be generated, as participants become disillusioned with an ill-performing institution.

By its nature, participatory budgeting is a collaborative effort between citizen participants and the government. This makes a strengthened base of popular political support a natural consequence of effective participatory budgeting programs. A reformist government is the most likely to successfully implement participatory budgeting, because of the high level of government support needed. Participatory budgeting programs subvert clientelism by providing open, transparent policy-making processes. Reformist governments gamble that by delegating decision making to citizen participants, they will weaken old clientelistic politics and strengthen their positions.

As participatory budgeting takes place outside the government itself, its activities largely bypass the legislature and the multiple patronage networks embedded therein. This is one of the most controversial aspects of participatory budgeting programs: legislators have virtually no role in the policy-making processes.

A second reason why local governments should adopt participatory budgeting is to increase the distribution of resources to low-income groups. The rules of participatory budgeting promote social justice; the emphasis on participation helps the government build support for redistributing resources among low-income and middle-class groups. Low-income citizens have access to greater levels of resources in participatory budgeting, which allows the government to provide a specific forum to address their needs.

Low-income citizens are not competing against middle- and upper-income citizens and groups in their efforts to secure desperately needed services and public works.

A third reason why local governments should adopt participatory budgeting is that mobilizing citizens provides opportunities to change their political and social consciousness. The lack of political knowledge about government, policymaking, and rights among most low-income Brazilians is an obstacle that reformist governments believe limits social change. Governments will implement participatory budgeting if they believe that improving the quality of citizens' political knowledge is an integral part of a more expansive effort to reform political, social, and economic structures. Many citizens in the developing world lack basic information on the responsibilities and authority of different levels of government; governments use participatory budgeting as a means to provide them with these basic tools.

A fourth reason why the local government's council should adopt participatory budgeting is to promote transparency, in the hope of reducing corruption and bureaucratic inefficiencies. Participatory budgeting may reduce corruption by increasing the number of citizens that monitor the distribution of resources. Where corruption is rampant, reformist governments use multiple public meetings and oversight committees to reduce the likelihood of corruption. In the local government council, all participatory budgeting projects should be assigned tracking numbers. Any interested citizen can use a computer terminal at a local government office to check the status of a project and verify if resources have been spent as promised.

VI. Recommendations

To bridge the gap between the government and the country's citizens, civil society must play a crucial role in the process of budget analysis. This will help to generate useful information on sectoral allocations and expenditures in simple terms. In turn, this will enable not just the intelligentsia, but also the citizens and the media to discuss the budget with the council to ensure more effective allocation and spending in key social sectors like health, education and agriculture. While the importance of the budget as a country's principal economic policy document and its critical role in ensuring equity and justice are well appreciated, serious budget work by independent groups should be initiated

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primarily to increase roles of, and opportunities for, non-governmental actors, especially CSOs, to actively engage in development and governance agendas.

VII. Conclusion

Participatory budgeting if not well managed can also come with significant risks. Participatory processes can be captured by interest groups. Such processes can mask the undemocratic, exclusive, or elite nature of public decision making, giving the appearance of broader participation and inclusive governance while using public funds to advance the interests of powerful elites. Participatory processes can conceal and reinforce existing injustices. The Participatory budgeting can be abused to facilitate the illegitimate and unjust exercise of power. It can be used to deprive marginalized and excluded groups of having a say in public affairs (Anwar 2007).

It can do so by unleashing the "tyranny of decision making and control" by overriding existing legitimate decision-making processes—by limiting the role of elected local councils in budgetary decisions, for example. The "tyranny of group dynamics" can allow manipulative facilitators to preserve and protect the interests of the governing elites. We can use the "tyranny of method" to exclude more inclusive methods of democratic voice and can equally exit, such as parental choice in school finance, under which both government and non-government schools are publicly financed based on enrollments (Cooke and Kothari 2001). The participatory process must fully recognize local politics and formal and informal power relations if it must prevent this abuse so that the process yield outcomes desired by the median voter.

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Los Derechos Humanos del Pueblo, Ante Una Pandemia Como el Covid-19, desde una Óptica Jurídica

By Alejandro Sánchez Sánche
Universidad Autónoma de Baja California

Abstract- The objective of the investigation was: to determine the human rights of the people, in the fase of a pandemic such as Covid-19, as well as the obligation of a Nation in the fase of a phenomenon of this nature, relating the three variables, to establish whether there is a right or not, to compensation in case of death, for the relatives in charge of the State, the methodology used was qualitative, documentary, descriptive, correlational and explanatory, concluding that if there is responsability of the Nation, it must analyze each especific case in particular.

Keywords: human rights, covid-19, compensation for death.

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Los Derechos Humanos del Pueblo, Ante Una Pandemia Como el Covid-19, desde una Óptica Jurídica

Alejandro Sánchez Sánchez

Resume- **El objetivo de la investigación fue: determinar los derechos humanos del pueblo, ante una pandemia como el Covid-19, así como la obligación de una Nación ante un fenómeno de esa naturaleza, relacionando las tres variables, para establecer sí hay derecho o no, a una indemnización en caso de muerte, para los familiares a cargo del Estado, la metodología utilizada fue cualitativa, documental, descriptiva, correlacional y explicativa, concluyendo que sí hay responsabilidad de la Nación, debiendo analizar cada caso en concreto en lo particular.**

Palabras clave: derechos humanos, covid-19, indemnización por muerte.

Abstract- **The objective of the investigation was: to determine the human rights of the people, in the fase of a pandemic such as Covid-19, as well as the obligation of a Nation in the fase of a phenomenon of this nature, relating the three variables, to establish whether there is a right or not, to compensation in case of death, for the relatives in charge of the State, the methodology used was qualitative, documentary, descriptive, correlational and explanatory, concluding that if there is responsability of the Nation, it must analyze each especific case in particular.**

Keywords: human rights, covid-19, compensation for death.

I. Introducción

Si bien es cierto que, el presente artículo es el resultado del proyecto de investigación planteado por lo que constituye un trabajo acabado, es también cierto que, es continuación de: COVID-19 y su relación con la ciencia jurídica desde la perspectiva de México[1] por lo que la lectura de éste, permitirá observar al analista con mayor profundidad, lo encontrado y planteado.

> El método significa, la manera de alcanzar un objetivo de conocimiento de manera ordenada y coherente. Desde esta perspectiva, la falta de método en la actividad humana trae consigo, un obstáculo que hace inaccesible la comprensión de la realidad objetiva. Empero, a pesar que el concepto método implica orden no puede uno sino maravillarse del extremo desorden reinante en este campo, ya que, existen diferentes puntos de vista sobre el método o los métodos. (Sánchez, 2020, p.6)

> Una buena investigación es aquella que disipa dudas con el uso del método científico, es decir, clarifica las relaciones entre variables que conciernen al fenómeno bajo estudio; de igual manera, planea con cuidado los aspectos metodológicos, con la finalidad de asegurar la validez y confiabilidad de sus resultados. (Hernández, Fernández-Collado, Baptista, 2006, p.117)

Partiendo de las premisas metodológicas mencionadas, se analizan las variables: 1. "la naturaleza jurídica de los derechos humanos"; 2. "la obligación de una Nación ante su pueblo respecto a los derechos humanos"; 3. "en caso de muerte por covid-19, hay indemnización por parte del Estado a los familiares"; utilizando como hilo conductor, el derecho humano a la salud ante una pandemia y la indemnización en caso de muerte por Covid-19. Para llegar a la conclusión, se partió de lo general a lo particular, utilizando premisas validas y verdaderas en la Ciencia Jurídica, como la Constitución Política de los Estados Unidos Mexicanos (CPEUM), pronunciamientos de organismos internacionales como la Organización Mundial de la Salud (OMS), leyes secundarias, libros, artículos científicos, deducciones y comparaciones del autor, encontrándose que sí, es responsabilidad del Estado atender fenómenos como el Covid-19 y es responsable ante sus habitantes de sus acciones, concluyendo que, se debe analizar cada caso en concreto, para determinar la indemnización a los familiares por muerte a causa de una pandemia.

II. La Naturaleza Jurídica de Los Derechos Humanos

En la CPEUM, en su parte dogmática, se encuentran consagrados los derechos fundaméntales, en ellos, en su primer artículo se consagra el derecho a todas las personas a gozarlos, así también, de las garantías[2] para su protección, el principio pro persona[3],

Author: Profesor Investigador, miembro del Sistema Nacional de Investigadores Nivel I, adscrito a la FCAyS de la Universidad Autónoma de Baja California, México. e-mail: alexsasacc@uabc.edu.mx

[1] Por constituir antecedente y primer resultado de esta investigación, se recomienda la lectura del artículo siguiente: Sánchez, A., (2020). COVID-19 y su relación con la ciencia jurídica desde la perspectiva de México. Utopía y praxis latinoamericana, Vol. 25, Núm. Esp. (11). DOI: https://doi.org/10.5281/zenodo.4278321

[2] En México, las garantías para la protección de los derechos humanos o derechos fundamentales son: para el gobernado, el Juicio de Amparo y el Juicio para la Protección de los Derechos Político-Electorales del Ciudadano, en el tema analizado aplica el primero mencionado.

[3] PRINCIPIOS DE PREVALENCIA DE INTERPRETACIÓN Y PRO PERSONA. CONFORME A ÉSTOS, CUANDO UNA NORMA GENERA VARIAS ALTERNATIVAS DE INTERPRETACIÓN, DEBE OPTARSE POR AQUELLA QUE RECONOZCA CON MAYOR AMPLITUD LOS DERECHOS, O BIEN, QUE LOS RESTRINJA EN LA MENOR MEDIDA. Cuando una norma pueda interpretarse de diversas formas, para solucionar el dilema interpretativo, debe atenderse al artículo 1º., segundo párrafo, de la Constitución Política de los Estados Unidos

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la obligación[4] de las autoridades respecto a estos derechos, y la prohibición a la discriminación[5], la Ley Federal para Prevenir y Eliminar la Discriminación (LFPED), es de orden público e interés social y tiene por objeto eliminar toda forma de discriminación. Esta es la naturaleza formal o jurídica de los derechos humanos, empero, la dignidad humana se cristaliza cuando se logra lo siguiente.

> Los derechos humanos son los medios necesarios para la satisfacción de las necesidades humanas de una forma digna; al concretizarse, se permite un desarrollo armónico, digno, igualitario de las sociedades humanas, con lo que se busca la satisfacción de las necesidades humanas, lo que produce placer y por tanto felicidad. En los Estados Unidos Mexicanos, los derechos humanos están reconocidos en la CPEUM, constituyéndose así, los derechos fundaméntales, éstos están consagrados en su parte dogmática y en los tratados internacionales en materia de derechos humanos de los que el Estado mexicano forma parte. (Sánchez, 2020, pp. 195 y 196)

Por el método establecido, este análisis se realiza de lo general a lo particular, por ello, ahora se

Mexicanos, reformado mediante decreto publicado en el Diario Oficial de la Federación el 10 de junio de 2011, en virtud del cual, las normas relativas a los derechos humanos deben interpretarse de conformidad con la propia Constitución y los tratados internacionales de los que México sea Parte, lo que se traduce en la obligación de analizar el contenido y alcance de esos derechos a partir del principio pro persona; de modo que ante varias alternativas interpretativas, se opte por aquella que reconozca con mayor amplitud los derechos, o bien, que los restrinja en la menor medida. De esa manera, debe atenderse al principio de prevalencia de interpretación, conforme al cual, el intérprete no es libre de elegir, sino que debe seleccionarse la opción interpretativa que genere mayor o mejor protección a los derechos. (registro digital: 2021124,2019,2000)

[4] DERECHOS HUMANOS. LA OBLIGACIÓN DE LOS ÓRGANOS DE AMPARO DE RESPETARLOS, PREVISTA EN EL ARTÍCULO 1o. DE LA CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS, LOS FACULTA PARA QUE AL CONCEDER LA SUSPENSIÓN DE LOS ACTOS RECLAMADOS HAGAN MENCIÓN DESTACADA DE LA EXISTENCIA DE OTROS DERECHOS QUE DEBEN SEGUIRSE RESPETANDO AL QUEJOSO, SIEMPRE QUE TENGAN VINCULACIÓN CON LOS ACTOS INICIALMENTE RECLAMADOS Y CON LAS AUTORIDADES QUE HAYAN SIDO SEÑALADAS COMO RESPONSABLES.

El párrafo tercero del artículo 1º. De la Constitución Política de los Estados Unidos Mexicanos establece la obligación de todas las autoridades del Estado Mexicano de respetar los derechos humanos y, en el ámbito de sus competencias, garantizar su ejercicio y reparar cuando se cometen violaciones en su contra; en ese sentido, en observancia del deber constitucional de respeto, resulta acorde a la competencia de las autoridades que conozcan del juicio de amparo que al decretar una medida cautelar de suspensión, hagan mención destacada, de manera potestativa, de la existencia de otros derechos fundamentales que, según el caso concreto, asistan al quejoso y que deben seguirse respetando por las autoridades responsables, siempre que tengan vinculación con los actos inicialmente reclamados y con las autoridades señaladas como responsables, pues dicha facultad tiene como finalidad favorecer, desde la labor jurisdiccional, una cultura de respeto a los derechos fundamentales, con el fin de evitar, en la medida de lo posible, conflictos que eventualmente pueden suscitarse en las relaciones de los gobernados con las autoridades, en cada situación concreta que llegue al conocimiento de las autoridades de amparo. (Registro digital: 2017889,2018,1537)

[5] Discriminación: Se entenderá por discriminación toda distinción, exclusión, restricción o preferencia que, por acción u omisión, con intención o sin ella, no sea objetiva, racional ni proporcional y tenga por objeto o resultado obstaculizar, restringir, impedir, menoscabar o anular el reconocimiento, goce o ejercicio de los derechos humanos y libertades, cuando se base en uno o más de los siguientes motivos: el origen étnico o nacional, el color de piel, la cultura, el sexo, el género, la edad, las discapacidades, la condición social, económica, de salud o jurídica, la religión, la apariencia física, las características genéticas, la situación migratoria, el embarazo, la lengua, las opiniones, las preferencias sexuales, la identidad o filiación política, el estado civil, la situación familiar, las responsabilidades familiares, el idioma, los antecedentes penales o cualquier otro motivo; También se entenderá como discriminación la homofobia, misoginia, cualquier manifestación de xenofobia, segregación racial, antisemitismo, así como la discriminación racial y otras formas conexas de intolerancia. (LFPED, 2003, 1)

IGUALDAD Y NO DISCRIMINACIÓN, PRINCIPIO DE. SU VIOLACIÓN POR LOS PARTICULARES.

El derecho de no discriminación que consagra el tercer párrafo del artículo 1º. De la Constitución Política de los Estados Unidos Mexicanos proscribe cualquier distinción motivada, entre otras, por razones de género y edad, condición social, religión o cualquiera otra análoga que atente contra la dignidad y tenga por objeto anular o menoscabar los derechos y libertades de las personas. Al respecto, la Ley Federal para Prevenir y Eliminar la Discriminación, reglamentaria del tercer párrafo del artículo 1o. de la Constitución Federal, en su artículo 4o. establece que para efectos de esa ley se entenderá por discriminación toda distinción, exclusión o restricción que, basada en el origen étnico o nacional, sexo, discapacidad, condición social o económica, condiciones de salud, embarazo, lengua, religión, opiniones, preferencias sexuales, estado civil o cualquier otra, tenga por efecto impedir o anular el reconocimiento o el ejercicio de los derechos y la igualdad real de oportunidades de las personas. No puede, pues, existir discriminación alguna por razones étnicas o de nacionalidad, raza, sexo, religión o cualquier otra condición o circunstancia personal o social, etc., que atente contra la dignidad, cuyo valor superior reconoce la Constitución, junto con los instrumentos internacionales en materia de derechos humanos, siendo entonces que hay una dignidad que debe ser respetada en todo caso, constituyéndose como un derecho fundamental. Ahora bien, este principio de no discriminación rige no sólo para las autoridades sino también para los particulares, pues lo contrario sería tanto como subordinar la supremacía constitucional a los deseos o actos de los particulares. Así, estos últimos tienen el deber de abstenerse de cualquier actuación que vulnere la Constitución, lo que no implica necesariamente que realicen conductas positivas, pero sí están obligados a respetar los derechos de no discriminación y de igualdad real de oportunidades. Poniendo el principio de no discriminación en relación con otros derechos, es posible ilustrar la forma en que se puede aplicar a las relaciones entre particulares: verbigracia, en principio los empleadores no podrán lícitamente distinguir entre sus trabajadores con base en alguno de los criterios prohibidos por la Constitución; tampoco lo podrán hacer quienes ofrezcan un servicio al público (ejemplo, negando la entrada a un estacionamiento público a una persona por motivos de raza) o quienes hagan una oferta pública para contratar (ejemplo, quienes ofrezcan en renta una vivienda no podrán negarse lícitamente a alquilarla a un extranjero). Lo anterior significa que la prohibición de no discriminar puede traducirse en una limitación a la autonomía de la voluntad, o autonomía de las partes para contratar, misma que debe ceder siempre que esté en juego la dignidad de la persona, de suerte que si mediante el pretexto de la autonomía de la voluntad se pretende cubrir una ofensa manifiesta, humillante, anuladora de la dignidad, los derechos fundamentales deben entrar en acción para reparar la violación; criterio aplicable en un caso en que se reclama indemnización por daño moral, derivado de la conducta discriminatoria atribuida a un particular. (registro digital: 160554, 2011, 3771)

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centra en el derecho humano a la protección de la salud[6] y salubridad general[7], lo cual se encuentra en el párrafo cuarto del artículo cuatro de la CPEUM y reglamentado en la Ley General de Salud (LGS), el primero establece:

> *Toda Persona tiene derecho a la protección de la salud*[8]. La Ley definirá las bases y modalidades para el acceso a los servicios de salud y establecerá la concurrencia de la Federación y las entidades federativas en materia de salubridad general, conforme a lo que dispone la fracción XVI del artículo 73 de la CPEUM. La Ley definirá un sistema de salud para el bienestar, con el fin de garantizar la extensión progresiva, cuantitativa y cualitativa de los servicios de salud, para la atención integral y gratuita de las personas que no cuenten con seguridad social.
>
> El artículo 73 de la CPEUM establece las facultades del Congreso de la Unión, para dictar leyes sobre salubridad general de la República, asimismo, indica que el Consejo de Salubridad General[9] dependerá directamente del Presidente de la República, sin intervención de ninguna Secretaría de Estado, y sus disposiciones generales serán obligatorias en el país.
>
> De la misma manera, fundamenta que, en caso de *epidemias de carácter* grave o peligro de invasión de enfermedades exóticas en el país, la Secretaría de Salud tendrá obligación de dictar inmediatamente las *medidas preventivas indispensables*, a reserva de ser después sancionadas por el Presidente de la República. Finalmente impone que, la autoridad sanitaria será ejecutiva y sus disposiciones serán obedecidas por las autoridades administrativas del País.

La Ley General de Salud, reglamenta el derecho a ella y establece las bases y modalidades para el acceso a los servicios de salud, la protección de la salud tiene la finalidad de, *la prolongación y mejoramiento de la calidad de la vida humana,* para el tema en estudio, en su artículo 181 establece que, "*en caso de epidemia de carácter grave, peligro de invasión de enfermedades transmisibles, situaciones de emergencia o catástrofe que afecten al país, la Secretaría de Salud dictará inmediatamente las medidas indispensables para prevenir y combatir los daños a la salud, a reserva de que tales medidas sean después sancionadas por el Presidente de la República*".

A partir de las premisas anteriores se puede concluir que, los derechos humanos son, aquellos medios indispensables, para la satisfacción de las necesidades humanas que nos corresponden por el solo hecho de haber nacido como tales, así se afirma que, la naturaleza jurídica de los derecho humanos obra como fundamento universal en los tratados internacionales, de estos los toma o formaliza cada Nación estableciéndolos como base constitucional, a partir de ese momento se constituyen en derechos fundamentales de los gobernados, documento en el cual también se deben establecer las garantías, para el cumplimiento o restablecimiento de aquéllos, entre esos derechos fundamentales se encuentran el derecho a la salud y a la vida.

III. La Obligación de Una Nación Ante su Pueblo, Respecto a Los Derechos Humanos

La razón de ser de un Estado Nación es, la protección de las personas residentes en su territorio, por ello, cada País establece o debe establecer en su ley suprema, la parte dogmática o la parte que contiene los derechos humanos adoptados por ese gobierno, siendo el titular de éstos derechos cada una de las personas que habitan en ese territorio; y, el obligado a cristalizarlos, respetarlos y garantizarlos es el mismo Estado Nación, por ello, ante una pandémica como lo es el Covid-19 que afecta la salud y la vida del ser humano, no hay duda que es obligación de cada Estado garantizar la salud y la vida de sus habitantes.

Por lo anterior, el día 9 de abril del año 2020, la Corte Interamericana de Derechos Humanos (CIDH), realiza la declaración 1/20 sobre el "COVID-19 Y DERECHOS HUMANOS: LOS PROBLEMAS Y DESAFÍOS DEBEN SER ABORDADOS CON

[6] Se entiende por protección social en salud a "la garantía que la sociedad otorga, por medio de los poderes públicos, para que un individuo o un grupo de individuos, pueda satisfacer sus necesidades y demandas de salud al obtener acceso adecuado a los servicios del sistema o de alguno de los subsistemas de salud existentes en el país, sin que la capacidad de pago constituya un factor restrictivo". La protección social en salud, constituye un marco de referencia para la concreción del acceso a niveles adecuados de cuidados de la salud, entendiendo a ésta como un derecho o un bien preferencial que la sociedad ha consagrado. Las políticas de protección social en salud, deben orientarse a la universalidad, garantizando el acceso, la calidad, la oportunidad y la protección financiera de las personas, familias y comunidad. Sin embargo, aunque universales, estas políticas deben estar atentas a producir respuestas especiales para necesidades especiales, siendo permeables al enfoque de género y proactivas en la atención de las necesidades de las minorías étnicas y culturales. (OPS y OMS, 2007, 1)

[7] En la Ley General de Salud, se reglamenta la materia de salubridad general, específicamente su artículo 3, en el cual en su fracción II establece que es materia de salubridad general *la atención médica*, asimismo, en la fracción XV establece que, la prevención y el control de enfermedades transmisibles, de lo que se deduce que es responsabilidad de la Secretaria de Salud, por tanto, el Estado mexicano, de la atención de la enfermedad llamada Covid-19 y sus variantes.

[8] Se entiende por salud, un estado de completo bienestar físico, mental y social, y no solamente la ausencia de afecciones o enfermedades.

[9] El Consejo de Salubridad General es, un órgano que depende directamente del Presidente de la República, está integrado por un presidente que será el Secretario de Salud, un secretario y trece vocales titulares, dos de los cuales serán los presidentes de la Academia Nacional de Medicina y de la Academia Mexicana de Cirugía, y los vocales que su propio reglamento determine. Los miembros del Consejo serán designados y removidos por el Presidente de la República, quien deberá nombrar para tales cargos, a profesionales especializados en cualquiera de las ramas sanitarias.

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PERSPECTIVA DE DERECHOS HUMANOS Y RESPETANDO LAS OBLIGACIONES INTERNACIONALES", en su preámbulo establece que:

> Como órgano de protección de los derechos humanos, consciente de los problemas y desafíos extraordinarios que los Estados americanos, la sociedad en su conjunto, y cada persona y familia están afrontando como consecuencia de la pandemia causada por el coronavirus COVID19, emite la presente declaración a fin de instar a que la adopción y la implementación de medidas, dentro de la estrategia y esfuerzos que los Estados Parte de la Convención Americana sobre Derechos Humanos están realizando para abordar y contener esta situación que concierne *a la vida y salud pública*, se efectúe *en el marco del Estado de Derecho*, con el pleno respeto a los instrumentos interamericanos *de protección de los derechos humanos* y los estándares desarrollados en la jurisprudencia de este Tribunal.

Asimismo, la CIDH en particular o de forma más específica establece que, las medidas que tomen los Estados deben ser en cumplimiento estricto al respeto de los derechos humanos, declarando que:

> Todas aquellas medidas que los Estados adopten, para hacer frente a esta pandemia y puedan afectar o restringir el goce y ejercicio de derechos humanos deben ser limitadas temporalmente, legales, ajustadas a los objetivos definidos conforme a criterios científicos, razonables, estrictamente necesarias y proporcionales, y acordes con los demás requisitos desarrollados en el derecho interamericano de los derechos humanos.
>
> Dada la naturaleza de la pandemia, los derechos económicos, sociales, culturales y ambientales deben ser garantizados sin discriminación a toda persona bajo la jurisdicción del Estado y, en especial, a aquellos grupos que son afectados de forma desproporcionada porque se encuentran en situación de mayor vulnerabilidad.
>
> En estos momentos, especial énfasis adquiere garantizar de manera oportuna y apropiada *los derechos a la vida y a la salud* de todas las personas bajo la jurisdicción del Estado sin discriminación alguna, el derecho a la salud, debe garantizarse respetando la dignidad humana y observando los principios fundamentales de la bioética, de conformidad con los estándares interamericanos en cuanto a su disponibilidad, accesibilidad, aceptabilidad y calidad, además, es indispensable que se garantice el acceso a la justicia y a los mecanismos de denuncia.

De la premisa anterior se deduce que, ante una pandemia como lo es el Covid-19, los Estados deben garantizar el derecho a la vida, a la salud, sin ningún tipo de discriminación, además de garantizar el acceso a la justicia y las vías de denuncia.

De igual forma, el día 27 de julio del año 2020, la Comisión Interamericana de Derechos Humanos, dicta la resolución No. 4/20 DERECHOS HUMANOS DE LAS PERSONAS CON COVID-19, en la que entre otras indicaciones establece:

> Las poblaciones de los países de las Américas han sido y continúan siendo, extremadamente afectadas por la pandemia. Los amplios grupos sociales con COVID-19, en especial aquellos en situación de vulnerabilidad, exigen una atención prioritaria en la defensa y protección de sus derechos. Las personas con COVID-19 corren un especial riesgo de no ver asegurados sus derechos humanos, en *particular a la vida* y a la salud, mediante la adecuada disposición de instalaciones, bienes y servicios sanitarios o médicos.

De esta premisa se deduce que, hace énfasis en los grupos sociales en situación de vulnerabilidad, los que requieren de una defensa y protección de sus derechos a la vida y a la salud, ante la pandemia que se vive.

En su apartado de consideraciones párrafo tercero de la resolución 4/20 subraya que los Estados deben:

> Adoptar todas las medidas necesarias con la finalidad de garantizar la atención adecuada y oportuna de la salud y del cuidado de las personas, particularmente de aquellas en situación de vulnerabilidad, y que todo menoscabo a los derechos humanos atribuibles a la acción u omisión de cualquier autoridad pública compromete la responsabilidad internacional de los Estados.

En este punto, se hace énfasis en que los Estados deben garantizar la atención oportuna de la salud, estableciendo que hay responsabilidad internacional del Estado por cualquier acción u omisión de sus autoridades, ante la vulneración a esos derechos.

En su apartado de consideraciones párrafo décimo quinto de la resolución 4/20 subraya que los Estados deben:

> Aún en el contexto de la pandemia de COVID-19, los Estados tienen la obligación de prevenir con la debida diligencia las violaciones de derechos humanos y también de proveer *un recurso adecuado y efectivo* que permita investigar seriamente, dentro de un plazo razonable, sancionar a los responsables y asegurar a la víctima y a sus familiares *una reparación adecuada*.

Aquí, se establece que los Estados tienen la obligación de prevenir, de proveer un recurso adecuado y efectivo, para sancionar y asegurar una reparación adecuada.

En su apartado de resolutivos de la resolución 4/20 indica que los Estados deben:

> La finalidad principal de toda atención o servicio de salud y cuidado dirigido a personas con COVID-19 *es la protección de la vida*, para proteger a las personas con COVID-19, los Estados deben guiar las medidas que adopten bajo *los principios de igualdad y no discriminación* de conformidad con los estándares interamericanos e internacionales de derechos humanos. Con el fin de garantizar y respetar el ejercicio de los derechos a la vida y a la salud de las personas con COVID-19, los Estados deben velar por *la accesibilidad y asequibilidad*, en condiciones de igualdad, respecto de las aplicaciones tecnológico-científicas que sean fundamentales para garantizar tales derechos en el contexto de pandemia.

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El fin de este mandato es la protección de la vida, bajo los principios de igualdad y no discriminación, accesibilidad y asequibilidad a la atención médica.

En su apartado de resolutivos de la resolución 4/20, formaliza las directrices para la prioridad de la vida de las personas con COVID-19 en las políticas públicas, recursos y cooperación, en la que indica que los Estados deben:

> Resulta prioritario que los Estados realicen esfuerzos focalizados para identificar, asignar, movilizar y hacer *uso del máximo de los recursos disponibles* con el fin de garantizar los derechos de las personas con COVID-19. Ello incluye el diseño de planes presupuestarios y compromisos concretos, entre ellos la asignación de fondos y partidas específicas, así como el aumento sustantivo de presupuesto público, *priorizando garantizar el derecho a la vida, a la salud y los programas* sociales destinados a apoyar a las personas con COVID-19.

Se establece el fundamento internacional que, ordena a los Estados hacer uso máximo de los recursos para garantizar el derecho a la vida y a la salud.

En su apartado de resolutivos de la resolución 4/20, formaliza las directrices sobre el acceso a la justicia de las personas con COVID-19, en la que indica que los Estados deben:

> Para garantizar *el derecho de acceso a la justicia* de las personas con COVID-19, deben asegurarse recursos dirigidos a investigar de manera seria, oportuna y diligente las afectaciones a sus derechos, que incluyen irregularidades en el diagnóstico, tratamiento y rehabilitación médica recibida, atención médica en instituciones sin la debida habilitación o no aptas en razón de su infraestructura o higiene, o por profesionales que no cuenten con la debida calificación para tales actividades.
>
> Se deben realizar todas *las diligencias indispensables para la conservación de los elementos de prueba y evidencias* que puedan contribuir al éxito de la investigación, tales como el debido registro y cuidado del historial clínico, la autopsia y los análisis de restos humanos. Estas actividades deben realizarse de forma rigurosa, por profesionales competentes y empleando los procedimientos más apropiados.
>
> Los procesos relacionados con denuncias de afectaciones a los derechos de las personas con COVID-19, así como la ejecución de las sanciones *deben ser decididos en un plazo razonable*. Cuando lo que se encuentra en juego en el proceso judicial es de crucial importancia para salvaguardar los derechos de la persona afectada, los Estados deben *actuar con celeridad y diligencia excepcional*, aun cuando este tipo de casos pueda significar cierto nivel de complejidad.
>
> Para *investigar y, en su caso, sancionar a los responsables* se debe hacer uso de todas las vías disponibles; la falta de determinación de responsabilidad penal, no debe impedir la investigación de otros tipos de responsabilidades y determinación de sanciones, tales como las administrativas o disciplinarias.

Se establece el fundamento internacional que, ordena a los Estados hacer uso máximo de los recursos, para garantizar el derecho de acceso a la justicia, realizar las diligencias indispensables para la conservación de los elementos de prueba y evidencias, decidiendo en un plazo razonable las responsabilidades, actuando con celeridad y diligencia excepcional.

Tanto los organismos internacionales en general, como las naciones en particular, han realizado diferentes actos de autoridad o políticas públicas, para hacer frente a la pandemia Covid-19, como lo observamos en la Corte Interamericana de Derechos Humanos y la Comisión, así mismo, se observa la actuación de países como Chile, Colombia y Perú.

> Describir las estrategias que fueron establecidas por Chile, Colombia y Perú durante el primer año de la pandemia por COVID-19 y compararlas desde el enfoque de derechos de la niñez. La pandemia ha afectado el funcionamiento de los sistemas económicos, sociales, de salud, educación, medioambiente y gobernanza de estos tres países. En este contexto, la región enfrenta el complejo desafío de *controlar la pandemia sin dejar de garantizar el ejercicio de derechos de su población*. (González, et al., 2021, p. 1)

> El análisis confirma, la necesidad de que los países consideren a los Niños, Niñas y Adolescentes (NNA) como sujetos de derecho en el ciclo de las políticas públicas. Con la pandemia por COVID-19, ha quedado demostrado que tanto las características de los países como los enfoques imperantes de análisis de *políticas públicas en salud* requieren poner especial atención a la participación deliberativa de los NNA. (González, et al., 2021, p. 6)

Ahora bien, no hay duda de que los Estados son los obligados de garantizar el derecho a la salud y a la vida de sus habitantes ante pandemias como el Covid-19, por tanto, ante una acción u omisión que violente esos derechos, se actualiza su responsabilidad.

> La responsabilidad patrimonial del Estado podría ser una garantía que proteja la integridad patrimonial, o bien la integridad en general del ser humano en todos sus aspectos respecto de actos del Estado, tomando en consideración que no se constriñe únicamente a cuestiones patrimoniales, sino que también incluye las extrapatrimoniales. Sin embargo, en lo referente al criterio de que la *proporcionalidad y equidad* pueden llevar a una solución justa para mantener íntegro el patrimonio, consideramos bastante la idea antes apuntada, consistente en que "la indemnización se debe determinar como resultado de la valoración de los derechos lesionados", pues con ello se pone de relieve el principio de justicia. (León, 2020, p. 193)

De las resoluciones, acuerdos y decretos, dictados por los organismos internacionales y asumidos por los Estados partes, se deduce que, reconocen su obligación de garantizar el derecho a la salud y a la vida de sus habitantes ante pandemias como el Covid-19, además, reconocen que ante la acción u omisión que

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trasgreda esos derechos, las víctimas y/o familiares tienen derecho a una indemnización.

IV. En Caso de Muerte Por Covid-19, Habrá Indemnización Por Parte del Estado a Los Familiares

Se delimita el análisis a los Estados Unidos Mexicanos, para determinar si jurídicamente los deudos de un fallecido por covid-19, tienen derecho o no, a una indemnización a cargo del Estado.

> *Lo primero* que hay que analizar para determinar si se configuran los presupuestos para que se reconozca esta responsabilidad patrimonial (daño, relación de causalidad entre el hecho o de la omisión con el daño, imputabilidad/factor de atribución y un obrar u omisión irregular o antijurídica –"falta de servicio"–) es la razonabilidad de los medios dispuestos para prevenir la pandemia. En otras palabras, si tomaron las medidas adecuadas y posibles en tiempo oportuno. *Lo segundo* que corresponde hacer es analizar la política sanitaria general adoptada por un Estado para paliar y combatir la pandemia, una vez que la misma se instaló. *Ambos razonamientos tienen que ver*, pues, con la legalidad del obrar, con el "funcionamiento normal" de la Administración. Tienden a indagar sobre los datos que permitan determinar si hubo o no hubo "falta de servicio". Se espera de la Administración un comportamiento diligente que tenga en cuenta todo lo necesario para la eficiencia, para la prevención; para evitar lo evitable en términos de contagios. Y, por fin, corresponderá *analizar el caso concreto de cada víctima*. En efecto, *aun cuando se considere razonable tanto lo actuado de modo general para prevenir la pandemia, como también lo actuado para combatirla, habrá que analizar cada caso concreto*. Puede suceder que en un caso concreto no se hayan seguido los protocolos generales que hubieran permitido salvar una vida. Por ejemplo, si no se dispone a tiempo de un respirador en el marco de una situación clínica de cuidado intensivo. (Gambier, 2020, pp. 4 y 5)

Se debe hacer énfasis en este punto conclusivo, en efecto, *aun cuando se considere razonable tanto lo actuado de modo general para prevenir la pandemia, como también lo actuado para combatirla, habrá que analizar cada caso concreto*.

> La pandemia de COVID-19 y las medidas que el Estado ha implementado, para hacer frente a la emergencia sanitaria han provocado significativos daños de diversa naturaleza que, eventualmente, podrían comprometer *la responsabilidad patrimonial estatal*. Entre otros, cabe mencionar *los daños a la salud o a la vida* de quienes han padecido la afección y que se contagiaron en el ejercicio de sus funciones como agentes estatales o al recibir atención médica en un centro de salud público, como así también, los perjuicios ocasionados por las acciones del Estado implicadas en la gestión de la emergencia sanitaria declarada por la ley 27.541 y ampliada por el decreto del Poder Ejecutivo nacional 260/2020. La casuística es sumamente variada. En determinados supuestos *el deber de responder estatal será muy claro* (v.gr., daños sufridos por personal que desempeña funciones en el ámbito sanitario), mientras que en otros no tanto debido a las dificultades que pueden presentarse para la configuración de los *requisitos que deben concurrir para que proceda la responsabilidad del Estado*, ya sea por su actuación ilegítima como legítima. (Perrino y Sanguinetti, 2020, 1)

Se compromete la responsabilidad estatal, por los daños a la salud o a la vida de quienes han padecido la afección y que se contagiaron en el ejercicio de su función, o al recibir atención médica, o en cualquier otra circunstancia, debiendo acreditarse requisitos legales para el reclamo al pago de una pensión, o compensación.

Existen diversas sentencias jurisdiccionales que determinan la responsabilidad del Estado por violación al derecho a la vida y a la integridad personal, por ejemplo.

> En Cuscul Pivaral, la Corte resolvió que el Estado puede ser responsable por violación del derecho a la vida en el contexto médico si se acreditan los siguientes elementos: a) cuando por actos u omisiones se niegue a un paciente el acceso a la salud en situaciones de urgencia médica o tratamientos médicos esenciales, a pesar de ser previsible el riesgo que implica dicha denegación para la vida del paciente; o b) se acredite una negligencia médica grave, y c) la existencia de un nexo causal entre el acto acreditado y el daño sufrido por el paciente. También destacó la vinculación entre una atención médica adecuada y el derecho a la integridad personal. (CIDH, MPI, IECEQ, 2020, p. 13)

En los Estados Unidos Mexicanos, la CPEUM en su artículo 4, párrafo cuatro existe el derecho fundamental para todas las personas a la protección de la salud, también, se encuentran las bases para el sistema de salud para el bienestar. Este artículo está reglamentado por la Ley General de Salud, la cual es de aplicación en toda la República, es de orden público e interés social, es decir, establece los parámetros a los que se deben ajustar las autoridades y particulares que, prestan los servicios de salud.

Resulta necesario vincular el artículo 123 de la CPEUM, pues en él se establecen las bases para los derechos de los trabajadores, entre ellos, lo concerniente a los accidentes de trabajo, enfermedades profesionales y la indemnización por estas causas, las garantías para la salud y la vida de los trabajadores, las cuales fundamentan que.

> Los empresarios serán responsables de los accidentes del trabajo y de las enfermedades profesionales de los trabajadores, sufridas con motivo o en ejercicio de la profesión o trabajo que ejecuten; por lo tanto, *los patronos deberán pagar la indemnización correspondiente*, según que haya traído como consecuencia la muerte o simplemente incapacidad temporal o permanente para trabajar, de acuerdo con lo que las leyes determinen. Esta responsabilidad subsistirá aún en el caso de que el patrono contrate el trabajo por un intermediario. (CPEUM, 1917, artículo 123 apartado A, párrafo XIV)

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> El patrón estará obligado a observar, de acuerdo con la naturaleza de su negociación, los preceptos legales sobre higiene y seguridad en las instalaciones de su establecimiento, y a adoptar las medidas adecuadas para prevenir accidentes en el uso de las máquinas, instrumentos y materiales de trabajo, así como a organizar de tal manera éste, que resulte la mayor garantía para la salud y la vida de los trabajadores, y del producto de la concepción, cuando se trate de mujeres embarazadas. Las leyes contendrán, al efecto, las sanciones procedentes en cada caso. (CPEUM, 1917, artículo 123 apartado A, párrafo XV)

De igual forma, el artículo 123 de la CPEUM apartado B, establece las bases para el trabajo digno entre los Poderes de la Unión y sus trabajadores, entre ellos, lo concerniente a los accidentes de trabajo, enfermedades profesionales y la indemnización por estas causas, las garantías para la salud y la vida de los trabajadores, las cuales fundamentan que.

> La seguridad social se organizará conforme a las siguientes bases mínimas: a) *Cubrirá los accidentes y enfermedades profesionales*; las enfermedades no profesionales y maternidad; y *la jubilación, la invalidez, vejez y muerte*. b) En caso de accidente o enfermedad, se conservará el derecho al trabajo por el tiempo que determine la ley. c) Los familiares de los trabajadores tendrán derecho a asistencia médica y medicinas, en los casos y en la proporción que determine la ley. (CPEUM, 1917, artículo 123 apartado B, párrafo XI)

La Ley Federal del Trabajo (LFT), es de observancia general en toda la República y rige las relaciones de trabajo comprendidas en el artículo 123, apartado A, de la CPEUM, establece que, *los beneficiarios del trabajador fallecido, tendrán derecho a percibir las prestaciones e indemnizaciones pendientes de cubrirse, ejercitar las acciones y continuar los juicios, sin necesidad de juicio sucesorio*.

Las leyes secundarias que reglamentan el apartado B del artículo 123 de la CPEUM, son varias, entre ellas, se menciona la Ley del Instituto de Seguridad Social para las Fuerzas Armadas Mexicanas, la cual establece que, los requisitos exigidos por esa ley a los familiares de un militar, para tener derecho a las prestaciones derivadas de la muerte de éste, deben estar reunidos al acaecer el fallecimiento.

Sánchez, Sánchez y Sánchez (2021) afirman que *se describen, correlacionan y explican las variables en estudio, además, se construye un silogismo jurídico objetivo y profesional, estableciendo como premisa mayor lo fundamentado en la CPEUM* en sus artículos 1, 4 y 123, de igual forma, se utilizan las leyes secundarias citadas. asimismo, se sustenta con premisas validas y verdaderas establecidas en la doctrina, por supuesto con las deducciones y expertis del autor de esta obra, para llegar a las conclusiones.

V. Conclusión

El vínculo existente entre las tres variables; los derechos humanos, la obligación de una Nación ante su pueblo y la indemnización por muerte en México.

Sobre los derechos humanos puedo concluir que, estos corresponden al ser humano por el hecho de haber nacido como tales, se encuentran escritos en documentos internacionales, adoptados por los Estados miembros en su Ley Suprema, lo que los constituye en derechos fundamentales, el titular de ellos son los gobernados y el obligado a cumplirlos es el gobierno o el Estado. Su naturaleza estriba en que son los medios necesarios para la satisfacción de las necesidades humanas de una forma digna, como los son el derecho a la salud, a la vida, sin ningún tipo de discriminación.

El nexo causal entre los derechos humanos y la obligación de una Nación ante su pueblo, se encuentra exactamente en que la razón de ser de un Estado es, la protección de las personas, por ello, establecen o deben establecer en su ley suprema, la parte dogmática que contiene los derechos humanos adoptados por ese país, siendo el titular de éstos derechos cada una de las personas habitantes en ese territorio; y, el obligado a cristalizarlos, respetarlos y garantizarlos es el mismo Estado, por lo que, ante una pandémica como lo es el Covid-19 que afecta la salud y la vida del ser humano, no hay duda que es responsabilidad de cada Nación garantizar la salud y la vida de sus habitantes, cuando esto no se cumple por cualquier causa, el Estado debe pagar la reparación del daño.

En los Estados Unidos Mexicanos, para determinar si jurídicamente los deudos de un fallecido por covid-19, tienen derecho o no, a una indemnización, se debe analizar cada caso en concreto, aun cuando se considere razonable tanto lo actuado de modo general para prevenir la pandemia, como también lo actuado para combatirla.

De esta forma, en la CPEUM en su artículo 4, párrafo cuatro existe el derecho fundamental para todas las personas a la protección de la salud, también, se encuentran las bases para el sistema de salud. Este artículo está reglamentado por la Ley General de Salud, la cual es de aplicación en toda la República, de orden público e interés social, es decir, establece los parámetros a los que se deben ajustar las autoridades y particulares que, prestan los servicios de salud. Asimismo, en el artículo 123 de la misma CPEUM, se establecen las bases constitucionales de los derechos de los trabajadores, de esta se origina la Ley Federal del Trabajo y otros ordenamientos secundarios, que regulan los derechos de los trabajadores, tanto del sector público como del privado.

Por todo lo anterior, se afirma que, independientemente del régimen de seguridad social al que se encuentre registrada la persona, o no

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pertenezca a ninguno, tienen derecho sus familiares a recibir las prestaciones devengadas hasta el momento de su muerte y a una indemnización a cargo del Estado, cuando se trate de muerte por una pandemia como el COVID-19.

VI. Propuesta

Se propone seguir con esta investigación de forma ahora más específica, delimitando el análisis a un país, por ejemplo, México, o a los Estados Unidos de Norte América, para determinar el nexo causa-efecto, los requisitos de una demanda, ante qué autoridades se deben reclamar estos derechos, además, para continuar con la difusión y divulgación del conocimiento y sea útil, tanto para estudiantes universitarios como operadores jurídicos, lo anterior, con un enfoque de las ciencias jurídicas, sin excluir la parte multidisciplinaria, para establecer vínculos entre las diferentes áreas del conocimiento que se involucren.

Se propone a los gobiernos que, establezcan una política pública de divulgación, para las personas que han sufrido la muerte de un familiar por una pandemia como el Covid-19, en la que se les indique que documentos deben presentar y ante quien, para recibir el pago de los haberes que corresponden.

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Emirati Foreign Policy Strategy in the Context of Ukraine-UAE Relations

By Dr. Koppel O.A. & Fedianin V.O.
Taras Shevchenko National University of Kyiv

Abstract- The UAE has transformed its foreign policy over the past decade. Conservative diplomacy can no longer meet needs and national interests of the UAE, which has become an influential regional power with global ambitions.

In most cases, the UAE's foreign policy is analyzed through specific foreign policy steps, initiatives and statements. At the same time, little attention has been paid to the analysis of the UAE's foreign policy strategy. This paper identifies and considers the three main stages of strategy development.

The purpose of the paper is to confirm the influence of the Emirati foreign policy strategy formed over the last decade on the main directions of the development of bilateral relations between Ukraine and the UAE.

The process of development of political dialogue is considered. It was found that the number and quality of bilateral political contacts significantly increased.

Keywords: UAE, UKRAINE, regional power, foreign policy, strategy, relations, cooperation, transformation, interests.

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Dr. Koppel O.A. [α] & Fedianin V.O. [σ]

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The process of development of political dialogue is considered. It was found that the number and quality of bilateral political contacts significantly increased.

The impact of changes in the UAE's foreign policy strategy on the trade, economic and investment bloc of relations is estimated. At the same time, significant changes in the dynamics were revealed. It creates preconditions for the growth of trade and investment. The development of military-technical cooperation between the two countries is reflected.

The UAE's position on Russia's aggression against Ukraine and the impact of this factor on bilateral Ukrainian-Emirati relations are considered separately. It is established that the Emirati position has been based on a pragmatic desire to continue developing relations with Ukraine, primarily trade, economic and investment blocs, as well as such a sensitive area as military-technical cooperation.

It is proved that the intensification of Ukrainian-Emirati relations is taking place against the background of the transformation of the UAE's foreign policy and corresponds to the changes reflected in the Emirates' foreign policy strategy. The UAE's national interests are increasingly moving beyond the traditional framework of the Arab and Islamic worlds. Thus, the development of cooperation between Ukraine and the UAE is one of the consequences of the transformation of the United Arab Emirates into a regional leader and the corresponding changes in the country's foreign policy.

Keywords: UAE, UKRAINE, regional power, foreign policy, strategy, relations, cooperation, transformation, interests.

I. Introduction

The United Arab Emirates is one of the most important countries in the Middle East due to its geographical location, level of economic development, investment potential and active foreign policy. Accordingly, the UAE is considered one of the most promising partners for development of bilateral relations and joint projects implementation. The foreign policy of the Emirates has been characterized by very high mobility and flexibility, reacting quickly to changes in the regional and global situations. For effective cooperation it is necessary to understand stages of evolution and the current state of the UAE's foreign policy strategy. This understanding allows to adopt a more substantive and focused approach to building bilateral relations with the Emirates, a regional leader that emerged after 2011.

The purpose of the article is to identify the main stages of development and the main components of the UAE's current foreign policy strategy, as well as to confirm the impact of the Emirati foreign policy strategy developed over the past decade on the main directions of bilateral relations between Ukraine and the UAE.

Researchers actively study the UAE's foreign policy, considering numerous initiatives and movements of Emirati diplomacy. However, this study attempts to examine the development of bilateral relations through the prism of the Emirates' foreign policy strategy to understand better reasons for change and the basis for further development of bilateral cooperation. This general framework reflects changes in the country's foreign policy priorities and the United Arab Emirates' assessment of the regional and global environment. Considering the UAE's foreign policy actions in the context of the strategy provides a more comprehensive understanding of their causes and motives.

To obtain scientific results, the article uses general and special political research methods, namely analysis, comparison and synthesis.

The article analyzes and compares statements of the top leadership of the state, provisions of the UAE's Constitution, the strategy of the UAE Ministry of Foreign Affairs and International Cooperation, publications of Emirates Policy Center "The UAE Power-Building Model and Foreign Policy Shifts", the Emirates Center for Strategic Studies and Research, German Institute for International and Security Affairs "Regional Power United Arab Emirates", Emirati media. Based on the analysis three main stages in the development of the UAE's foreign policy strategy were identified - 1971-1990; 1990-2011 and from 2011 to the present.

Author α: Professor of Taras Shevchenko National University of Kyiv, Ukraine. e-mail: makareast@gmail.com
Author σ: Ph.D student of Taras Shevchenko National University of Kyiv, Ukraine.

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The development of political dialogue and trade and economic cooperation between Ukraine and the UAE after 2011 is considered separately. For this purpose, statements, comments and publications of Ukrainian authorities (Office of the President of Ukraine, Ministry of Foreign Affairs of Ukraine, Ministry of Strategic Industries of Ukraine, Embassy of Ukraine in the UAE), Emirati officials and companies (EDGE Group, DP World) are analyzed.

II. UAE Foreign Policy Strategy

As our article aims to use the context of the UAE's foreign policy strategy, we will first outline its main directions and three main stages of development.

The founder and the first President of the UAE Sheikh Zayed bin Sultan Al Nahyan at the opening ceremony of the first session of the first convocation of the UAE Federal National Council on February 13, 1972, said that the UAE's foreign policy "aimedat victory of Islamic and Arab interests and problems, strengthening friendships and cooperation with all countries and peoples based on principles of UN Charter and the best international norms"(118-117 :2018 ،زايد المؤسس). These words entirely formed Article 12 of the UAE's Constitution (Constitution, 2013), which enshrined the main goals of foreign policy. The article itself is still the only constitutional norm that directly regulates the foreign policy sphere and its directions.

During the third session of the first convocation of the Federal National Council on November 20, 1973, Sheikh Zayed defined the strategic framework of the young country's foreign policy. This first foreign policy strategy contained five main elements: defining the UAE people as part of the Arab "ummah"; recognition of natural and historical unity with other Arab countries of the Gulf, which requires the development of the closest relations with them; assistance in resolving the just problems of the Arab "ummah" and, above all, the Palestinian problem; maintaining fraternal relations with the Islamic world in Asia and Africa; recognition of the importance of developing relations with other countries of the world based on common interests (زايد المؤسس، 118-117 :2018). The identified strategic directions clearly outline the main priority of foreign policy – the Arab and Islamic worlds. Development of relations with other countries was seen as a secondary direction, which was absolutely true for a young nation that had just emerged on the world map and considered Arab/Islamic unity an element of its security.

The situation changed after the Iraqi invasion of Kuwait. Exactly after August 2, 1990, it became clear that the Gulf Cooperation Council could not sufficiently ensure the security of its member states. This event also clearly demonstrated to the Emirati leadership the collapse of pan-Arab action and the start of a new chapter of international relations and building of new alliances (Al-Ketbi, 2021: 38). On the second stage of its development the UAE's foreign policy searching a response to threats entered a new phase of development of allied relations with key Western countries. First of all, we are talking about the United States of America. The UAE and the United States signed a bilateral Defense Cooperation Agreement on July 25, 1994. Subsequently, this document was updated and a new one entered into force on May 30, 2019, with a 15-year duration (Katzman, 2021: 15).

The new strategic direction allowed to get strong security guarantees, state-of-the-art Western armaments and a permanent allied military presence. The high level of relations and trust is evidenced by the fact that on April 2019 the United States deployed F-35A Lightning II fighters at Al Dhafra Air Base near Abu Dhabi. This is the first such deployment of these aircraft on the Middle East (The National, 2019).

Events of the "Arab Spring" can be considered as a starting point of the third stage in the development of the UAE's foreign policy strategy. Since 2011 the UAE Foreign Ministry has been developing and publishing its three-year foreign policy strategies. Given the threats to stability and security posed by the "Arab Spring", the regional dimension should be unalterable for the UAE. Undoubtedly, the Arab and broader Islamic worlds remain and will remain a big priority for the UAE's foreign policy in the future, given geographical and cultural factors. However, despite the solid regional challenges, it was at this stage that the global dimension of the Emirates' foreign policy became apparent. During the "Arab Spring" the UAE became a strong regional leader and began to project its foreign policy onto the global agenda.

As we noted, the Arab world naturally continues to be the central platform for UAE's foreign policy, but at present, the Arab component of diplomacy remains enshrined only in the Constitution and is not reflected in the strategies of the UAE Ministry of Foreign Affairs and International Cooperation and strategic plans of the country's top leadership. If in the previous stages the UAE positioned itself as a part of the Arab world, now it is working hard to create the image of a prosperous modern state, such an exemplary state model, where dozens of different nations live peacefully and work effectively thanks to the most tolerant environment. This position of a responsible member of the international community allows the Emirates to go beyond the Arab "ummah" and to have greater foreign policy freedom, which opens up qualitatively new opportunities. In particular, this positioning and focus on economic/ technological aspects of cooperation have prepared the ground for Abraham Accords to become a new reality of the Middle East. Commenting on the first-ever visit of Israeli President Yitzhak Herzog to the UAE, Diplomatic Adviser to the UAE President Anwar Gargash said that

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"the main focus of our bilateral relations with countries around the world was based on our assessment of economic, technological and scientific priorities for the Emirates (Twitter, 2022).

The strategy of the UAE Foreign Ministry for the period 2017-2021 for the first time defines "Active Global Responsibility" among the strategic objectives. By implementing this strategy, the UAE wants to create a tangible positive impact on the global development agenda working with regional and international partners to pursue mutual interests (Strategy of the Ministry of Foreign Affairs 2017-2021, 2017).

Presenting the strategy, UAE State Foreign Minister Anwar Gargash (currently Diplomatic Adviser to the UAE President) explained that Emirati diplomacy was seeking to maintain world leadership in development projects that help to overcome hunger and poverty, as well as expand women empowerment in developing societies (2017 ،وكالة وام). It should be noted that the UAE Government established the Office for the Coordination of Foreign Aid in 2008, transforming it into the Ministry of International Cooperation and Development in 2013. And in 2016, this Ministry merged into the UAE Ministry of Foreign Affairs (now the UAE Ministry of Foreign Affairs and International Cooperation). Then the implementation of development projects abroad and humanitarian aid became the official tool of the UAE foreign policy.

The ten basic principles of the UAE's development (2021 ،وكالة وام) announced by the top leadership of the country for the next 50 years allow us to predict that the Emirates will continue the regional leader's foreign policy strategy with strong global ambitions formed over the past ten years. In particular, this is directly stated in the second principle (complete focus on building the best and most dynamic economy in the world) and the sixth principle (strengthening the global image of the Emirates is a national task for all government bodies). The country's foreign policy has been proclaimed an instrument in the service of the highest national interests. This is radically different from the "victory of Arab and Islamic interests and problems," as stated in the Constitution.

Emirati policy has moved away from ideology, militarization, stagnation and intransigence. The UAE's adoption of a competitive and free economic model has necessitated the establishment and expansion of interest-based international relations (Al-Ketbi, 2021: 108). And this is what created favorable conditions for the further development of bilateral relations of the UAE with the countries of Eastern Europe, particularly with Ukraine.

III. Ukraine-UAE Relations

Political dialogue. Given the peculiarities of the UAE's state system and the exceptional importance of direct dialogue with the Emirati leadership for the development of bilateral relations intensifying political dialogue at the highest level deserves the most significant attention. First of all, we are talking about the Crown Prince of Abu Dhabi Mohammed bin Zayed Al Nahyan. Despite his position, he is the de facto leader and ruler of the country. Mohammed bin Zayed is the undisputed leader in the emirate of Abu Dhabi and the UAE (Steinberg, 2020: 7).For arranging effective visits to the country, the main emphasis must be placed on negotiations and agreements with the Crown Prince of Abu Dhabi.

According to Guido Steinberg, the Emirates are more important today because they influence the political situation in many more countries and more conflicts than before 2011. First of all, it's about the role of the UAE in the development of situations in the GCC countries, Yemen, Somalia, Eritrea, Ethiopia, Sudan, Egypt and Libya. The UAE's position concerning Iran, as well as Abu Dhabi's influence on the Trump administration, must also be taken into account (Steinberg, 2020: 34).

Dozens of visits and bilateral events have been organized for almost 30 years since establishing diplomatic relations between Ukraine and the UAE (October 15, 1992). However, the vast majority of them and the most important events took place during the last decade or during the third stage of development of the UAE foreign policy strategy.

Contacts at the highest level were quite intensive, however, the Ukrainian side had the initiative here. Since 1992 there have been six visits of the President of Ukraine to the UAE: in 2003, 2009, 2012, 2015, 2017 and 2021.

To demonstrate Ukraine's commitment to further development of comprehensive cooperation with the UAE, as well as improving consular services for Ukrainians and foreigners, on April 5, 2012, the Ukrainian diplomatic presence in the Emirates was expanded through the opening of the Consulate of Ukraine in Dubai (The Consulate of Ukraine in Dubai, 2012).

According to the criterion of the importance of the achieved results, it is worth to highlight the working visit of the President of Ukraine Petro Poroshenko to the UAE on November 1-2, 2017. During this visit, a Memorandum of Understanding was signed between the Cabinet of Ministers of Ukraine and the Government of the United Arab Emirates on mutual abolition of visa requirements (Verchovna Rada Ukraïny, 2017). The signing of this document paved the way for visa-free travel for citizens of two countries. This new page in relations has dramatically simplified and intensified business and tourism activities.

The official visit of the President of Ukraine Volodymyr Zelenskyy to the UAE on February 13-15, 2021, became even more critical for the intensification of cooperation. During the visit he held talks with the

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Crown Prince of Abu Dhabi, Deputy Supreme Commander of the UAE Armed Forces Sheikh Mohammed bin Zayed Al Nahyan and with Vice President, Prime Minister and Ruler of Dubai Sheikh Mohammed bin Rashid Al Maktoum. More than ten bilateral agreements and memoranda were signed (Official website of the President of Ukraine, 2021). The following documents should be highlighted: Agreement on cooperation in combating crime and terrorism, Memorandum of Understanding on mutual recognition and exchange of national driver's licenses, Memorandum of Understanding on food Security and Cooperation Agreement between State Concern "Ukroboronprom", State Company "Ukrspecexport" and "EDGE Group" holding on the expansion of military-technical cooperation and implementation of joint projects. Another important achievement was the formation of the Ukrainian-Emirati Coordination Council, which follows up and monitors the implementation of agreements in all areas.

On the Emirati side, the last decade has also seen a significant intensification of dynamics. Until 2011 the only notable event was the visit of the Head of the Office of the Crown Prince of Abu Dhabi, Managing Director of Abu Dhabi Investment Administration (ADIA) Hamed bin Zayed Al Nahyan in 2010. During the visit the Emirati official was received by the President of Ukraine. Sheikh Hamed bin Zayed Al Nahyan met with the Prime Minister of Ukraine, the Minister for Foreign Affairs of Ukraine and the Minister for Fuel and Energy of Ukraine (Embassy of Ukraine in the United Arab Emirates, 2021).

Till 2010 the political dialogue was actually one-sided. After 2011Emirati officials have begun to visit Kyiv regularly. This is the best indicator of the changes in relations with Ukraine that have taken place in the third stage of the UAE's foreign policy strategy.

UAE Foreign Minister Abdullah bin Zayed Al Nahyan paid an official visit to Ukraine on May 18-19, 2011, for the first time in the history of bilateral relations. During his talks with the President of Ukraine, the two noted the need to build partnership relations between countries, as well as high-level Ukrainian-Emirati political contacts. The statement of the Emirati minister about the intention to open the UAE Embassy in Kyiv in the near future was significant (Ministry of Foreign Affairs of Ukraine, 2011). The Embassy of the United Arab Emirates in Ukraine opened its doors in September 2013 (MOFAIC of the UAE, 2013), namely 21 years after the establishment of diplomatic relations.

To maintain a high level of political dialogue between two countries the Emirati side held telephone conversations during 2013-2014, as well as meetings of the Ministers of Foreign Affairs of two countries within the UN General Assembly in New York.

Another important event was the visit of the UAE State Minister of Foreign Affairs Anwar Gargash to Ukraine on August 16-17, 2018. The Emirati official pointed out the significant development of economic relations between the UAE and Ukraine, emphasizing that the growth of trade exchanges was mainly driven by the increase in Ukrainian imports of minerals and agricultural commodities into the UAE and the increase of re-exports from the UAE to Ukraine (WAM, 2018). He also outlined wide opportunities for cooperation in the field of technology, research, innovative industrial revolution technologies and called on Ukrainian business to look more actively at investment opportunities in the UAE.

Separate efforts have been made to develop inter-parliamentary dialogue. The Verkhovna Rada of Ukraine established a parliamentary group on inter-parliamentary relations with the UAE, which includes 107 People's Deputies of Ukraine. The number of members of the group shows itself the extremely high attention to the development of relations with the Emirates. In comparison, the Verkhovna Rada's inter-parliamentary relations group with Saudi Arabia has 22 deputies, 16 with Qatar, 7 with Kuwait, 6 with Bahrain, and there is no such group with Oman at all (Verkhovna Rada of Ukraine, 2019).

The UAE Federal National Council of the 17th convocation also established its inter-parliamentary friendship group with Ukraine, consisting of 6 deputies headed by Sarah Muhammad Falaknaz. In March 2021, the first meeting of the deputy groups of the Verkhovna Rada of Ukraine and the Federal National Council of the UAE (2021 ،وكالة وام) took place. Due to quarantine restrictions, the talks were held online, but provided an opportunity to discuss the full range of inter-parliamentary cooperation and bilateral relations between two countries.

Trade and economic relations. The trade and economic directions have a special significance for the UAE. The economy is one of the defining criterion of the effectiveness and direction of development of the Emirates foreign policy. Such economic "maneuvers" of Emirati diplomacy sometimes lead to the misunderstanding of the UAE's foreign policy, but, according to the President of Emirates Policy Center Ebtesam Al-Ketbi, such a strategy allows the economy and politics to go hand in hand, making the UAE's international relations approach realistic (The National, 2021).

In the framework of strengthening the economic component of relations between Ukraine and the UAE, first of all, it is necessary to highlight the launch of the Intergovernmental Commission on Trade and Economic Cooperation. This mechanism provides an opportunity to properly coordinate and regularly review the entire agenda of trade and economic relations, as well as effectively address issues. The commission was launched based on provisions of the Agreement between the Government of Ukraine and the Government of the UAE on economic, trade and

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technical cooperation, which entered into force in April 1995 (Ministry of Economy of Ukraine, 2020). But the first constituent meeting of the commission took place in Kyiv on May 17-19, 2011, under the chairmanship of the Ministers of Foreign Affairs of Ukraine and the UAE. During commission's meeting the main directions of further cooperation, as well as mechanisms for intensifying trade and economic cooperation were discussed and identified. The second meeting of the commission was held on October 7-8, 2012, in Abu Dhabi, the third – on August 16-17, 2018, in Kyiv.

It should be noted that the commission was launched 16 years after the signing of the agreement during the third stage of the development of the UAE's foreign policy strategy.

In 2021 the Ukrainian-Emirati Coordination Council, established following the visit of the President of Ukraine to the UAE, worked actively on the intensification of economic relations. Its first meeting took place ten days after the mentioned visit of the President of Ukraine to the UAE. The main areas of cooperation are food security, investment, military-technical cooperation, cooperation in the field of lending, IT and cyber security. The head of the UAE part of the Ukrainian-Emirati Coordination Council, Minister of Climate Change and Environment Mariam Al-Mheiri, stressed that the goal is to increase the level of non-oil trade between the countries ten times, from 806 million to 8 billion US dollars (Official website of the President of Ukraine, 2021). The Ukrainian part of the council is headed by the head of the Office of the President of Ukraine Andriy Yermak, who emphasized the high priority of relations with the UAE for Ukraine.

In 2021 M.Al-Mheiri visited Ukraine three times to hold talks with the Ukrainian side and participate in international events. This intensity indicates the UAE's interest in deepening trade and economic relations and bringing them to a new level.

She visited the International specialized exhibition "Arms and Security 2021", which took place in Kyiv on June 15-18, 2021, and held talks with Deputy Prime Minister of Ukraine - Minister for Strategic Industries of Ukraine Oleg Uruskyi (Ministry of Strategic Industries of Ukraine, 2021). During the exhibition the Emirati delegation was acquainted with the latest Ukrainian military equipment and weapons. During the talks with O. Uruskyi the current state of military-technical cooperation and prospects for further cooperation in production and use of unmanned systems, missile construction, high-precision weapons, armored industry and other areas were discussed.

Within a few months M. Al-Mheiri took part in the International Defense Investment Forum, which took place on August 12, 2021, in Kyiv, and held another talks with O. Uruskyi (Ministry of Strategic Industries of Ukraine, 2021). Areas of mutual interest were discussed, in particular in the field of aviation and space.

In September 2021, the head of the Emirati part of the Ukrainian-Emirati Coordination Council visited Ukraine to intensify the agro-industrial relations. During the talks with the Minister of Agrarian Policy and Food of Ukraine Roman Leshchenko the main aspects of attracting investments and implementing investment projects in the agricultural sector of Ukraine were discussed (Ministry of Agrarian Policy and Food of Ukraine, 2021).

According to the Embassy of Ukraine in the UAE (Embassy of Ukraine in the United Arab Emirates, 2021), the largest share of cooperation between Ukraine and the UAE in the economic sphere today is agro-industrial trade (over 50%) and metallurgical products (about 30%). Tables 1 and 2 show the quantitative indicators of trade in goods and services between Ukraine and the UAE in the period 2015-2020. As can be seen from statistics, there is a gradual increase in trade. For faster growth the range of products with high added value must be expanded.

Tab. 1: Foreign trade in goods between Ukraine and the UAE (million USD)

	Year					
	2015	2016	2017	2018	2019	2020
Trade turnover	359,4	341	444	565.3	606,6	500
Export	301,8	277,6	384,6	486.1	526,1	439,1

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Import	57,6	63,4	59,4	79.2	80,5	60,9
Balance	244,2	214,2	325,2	406.9	445,6	378,2

Tab. 2: Foreign trade in services between Ukraine and the UAE (million USD)

	Year					
	2015	2016	2017	2018	2019	2020
Trade turnover	294	269	334,7	394.3	458,7	400,4
Export	204,7	170	216,6	255	346,6	324,5
Import	89,3	99	118,1	139.3	112,1	75,9
Balance	115,4	71	98,5	115,7	234,5	248,6

In this context, significant hopes are placed on military-technical cooperation capable of expanding trade with modern high-tech products. During the visit of the President of Ukraine to the UAE in 2021 the State Concern "Ukroboronprom", the State Company "Ukrspecexport" and the Emirati holding "EDGE Group" signed a tri-party strategic cooperation agreement, which could lead to over 1 billion US dollars' worth of investments (EDGE Group, 2021). According to CEO and managing director of "EDGE Group" Faisal Al Bannai, the Emirati side is excited about the opportunities for the UAE and Ukraine from one another's military and technical capabilities.

Speaking of investments, Ukraine and the UAE have already gained successful experience in large-scale investment partnerships. In June 2020, one of the world's largest port operators, the Emirati company "DP World", completed the acquisition of a controlling stake (51%) in TIS container terminal in the port of "Pivdennyi" in Odesa region, Ukraine (DP World, 2020). According to Group chairman and CEO of "DP World" Sultan bin Sulayem, the acquisition of TIS container terminal opened the opportunity to work in a highly attractive Ukrainian market. For Ukraine it is also an excellent opportunity to join the global modern logistics network managed by "DP World" in 54 countries. In particular, in the Black Sea region the Emirates has formed a network of three terminals in Ukraine, Turkey and Romania, which allows to strengthen regional supply chains.

The factor of the Russian Federation. The armed aggression of the Russian Federation against Ukraine that started in 2014 significantly affected the agenda of bilateral relations between Ukraine and the UAE. However, the current stage of development of the UAE foreign policy strategy and the ability of Emirati diplomacy to adapt quickly allow to pass this difficult stage with minimal losses for Ukrainian-Emirati relations. The Emirates' focus on economics and development also facilitates under current conditions. The UAE avoids sharp political differences but takes into account rather than ignores the international community's position on Russian aggression and its consequences.

The UAE deliberately did not take part in the voting for UN General Assembly resolution №262 "Territorial integrity of Ukraine" adopted on March 27, 2014 (United Nations Digital Library, 2014), although it was the critical resolution for Ukraine. However, the Emirates clearly and unequivocally does not support Russia's aggression against Ukraine. Even the launch of a strategic partnership with Russia (Reuters, 2018) has not forced the UAE to recognize an attempt of annexation of Crimea or to support other consequences of Moscow's aggressive policy toward Ukraine.

The UAE's official position is to call for dialogue and negotiations. As noted by the UAE Permanent Representative to the UN Lana Nusseibeh on January 31, 2022, during a meeting of the UN Security Council on the situation along with the Russian Federation - Ukraine border, the conflict requires a serious dialogue

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through existing mechanisms, emphasizing the principles of sovereignty, territorial integrity and good-neighborliness as indispensable elements in maintaining international peace and security (United Nations, 2022).

The UAE has a territorial dispute with Iran over three islands in the Persian Gulf, which has been going on since the founding of the state in 1971 and has no clear prospects for a solution. Realizing from their own experience the complexity and possible duration of the Russian-Ukrainian conflict, the UAE considers it inappropriate to support one of the parties at this stage.

The position of the Emirates allows them to actively and fully develop relations with Ukraine. The UAE has absolutely apparent pragmatic interests in cooperation with Kyiv. Given the ten basic principles of the UAE development for the next 50 years, it can be stated that the continuation of cooperation with Ukraine is in the highest national interests of the Emirates and the country's foreign policy has developed an appropriate position for that.

IV. Conclusion

The UAE's foreign policy strategy has gone through three main stages. After 2011, in the current third stage, it is characterized by solid regional leadership with clearly defined ambitions to influence the global agenda. The Emirates has chosen to implement development programs in various countries worldwide as its main area of activity on the global level. This is quite logical, given such a developed instrument of Emirati foreign policy as humanitarian and foreign aid. It allows to avoid political moments and at the same time effectively influences the position of the recipient countries.

Another feature of the UAE's current foreign policy strategy is the high concentration on the trade and economic component and cooperation in the field of high technology. To implement the plan to build the best economy in the world, the Emirates' foreign policy is ready to show flexibility and resort to rapid maneuvers, which are explained by pure pragmatism and national interests. That is why the foreign policy has been officially proclaimed by the state leadership as an instrument in the service of the highest national interests.

An example of pragmatism and priority in developing trade and economic relations is the UAE's position on the Russian-Ukrainian conflict. After 2014 the Emirates continued to develop bilateral relations with Ukraine actively. Concrete examples of infrastructure investments (DP World) and cooperation in the field of military-technical cooperation (Emirati holding EDGE Group) testify the sustainability and availability of long-term partnership plans.

The UAE has gone beyond the Arab "ummah" frame. The country actively creates the image of a new model of a successful modern state, where the Arab/Islamic component is the main but one of the other elements of society. Such positioning gives a broader field for the foreign policy of the state. And the most striking example of this is the conclusion of the Abraham Accords, which created a new reality in the Middle East.

There is an active development of bilateral relations between the UAE and other countries, including Ukraine. This suggests that the current strategy of the UAE's foreign policy serves the interests of Ukraine, which considers the UAE one of the most promising partners in the Middle East and is interested in deepening a comprehensive partnership with the country, especially on the background of the conflict with Russia, when Ukrainian goods need new markets. And the Emirates is ready to provide these markets announcing its intention to increase non-oil trade by ten times.

Since 2011 there has been a rapid development of high-level political dialogue between Ukraine and the UAE. There is a regular exchange of visits. The work of the mechanism of the Intergovernmental Commission on Trade and Economic Cooperation has been intensified. The Ukrainian-Emirati Coordination Council works in parallel. There is a gradual increase in trade turnover.

Given the importance of the economic component for the UAE, further research should focus on aspects of the trade, economic, investment, military and technical cooperation, on which the level and degree of interest of the Emirates in bilateral relations with the countries of the world largely depend.

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A Comparative Analysis of the Civil and Public Services in Nigeria

By Michael J. Eyo
Obong University

Abstract- Public Service and Civil Service have always been used interchangeably to mean one and the same thing. Consequently, some writers and scholars define the Civil Service to include statutory corporations, the military and paramilitary organizations, local government and public corporations established by Act of the National Assembly the teaching service judicial service. This work therefore seeks to establish whether actually Public Service and Civil Service are one and the same thing. The work adopts the Doctrinal approach. Data/information for the work were sourced from primary sources such as books, library, magazine statutes, the constitution. Findings from the work reveal that the Public Service differs substantially from the Civil Service, however, with some points of convergence. The work recommends that while the Civil Service should be sustained as the service involving the ministries and extra-ministerial departments, under the control of the Civil Service Commission the Public Service should have an umbrella commission called Public Service Commission for all constitutional bodies, military and paramilitary forces, the local government and other corporations established by Act of the National Assembly which also defines its structure, composition, powers, appointment, discipline and control.

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A Comparative Analysis of the Civil and Public Services in Nigeria

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I. Introduction

The term Public Service and Civil Service have always been used interchangeably to mean one and the same thing. Consequently, some scholars and writers define the Civil Service to include not only the Ministries and Extra-Ministerial Departments, but also the military and para-military organizations, public corporations, government owned companies, the National and State Assemblies, Judicial Service Commission, Local Government, teaching Service and many more subvented by the government.

Government globally have come to grip with the reality that impressive growth and socio-economic provision and improvement in the security welfare and wellbeing of its citizens depend substantially on it Public and Civil Services[1]. This implies that the effective and efficient performance of the Public Service determines greatly the level of economic stability of a nation[2].

Author: Dept. of Political Science/Public Administration, Obong University, Obong Ntak, Akwa Ibom State, Nigeria.
e-mail: wasanim2006@yahoo.com

[1] Section 14(2) (b) of the 1999 *Constitution of the Federal Republic of Nigeria*. Section 17(1)(2)(3), Section 18(1)(2)(3).

[2] S. P. Naidu, "*Public Administration: Concepts and Theories*", New Delhi: New Age International Publishers, 2005, p. 217.

The Public and Civil Services are bureaucratic organizations, but the 1999 Constitution[3] defines specifically the Public Service to include clerks of the legislature, staff of the Judiciary, Corporation, Local Government and Area Councils, educational institutions, armed forces and other para-military formation including the police.

It is not all these components of the Public Service that are established and regulated by the constitution. For instance, the constitution only provides for the Armed Forces of the Federation[4], Nigeria Police Force[5], the National Population Commission, Federal Character Commission, Independent National Electoral Commission (INEC), Civil Service Commission, Police Service Commission, Revenue Mobilization Allocation and Fiscal Commission[6].

These are all public agencies arms of the government established to provide services which are sufficiently complex to warrant their establishment as separatebodies outside the normal operation of the Civil Service, with attendant guarantees by the law establishing them to be considerably flexible and somehow autonomous but all subject to the general direction of the government and legislation[7].

Public agencies are established for complex and technical services, for instance, the military, is constitutionally empowered to defend the territorial integrity of Nigeria, suppress insurrection and assist the police in internal security, the Police is meant for maintaining and securing public safety and order, NNPC, INEC, PHCN for making available goods and services, manage Public utilities or resources, implement law, regulate certain sectors and advise the government[8].

[3] Section 318 of the 1999 *Constitution of the Federal Republic of Nigeria.*

[4] Section 217 of the 1999 *Constitution of the Federal Republic of Nigeria.*

[5] Section 214 of the 1999 *Constitution of the Federal Republic of Nigeria.*

[6] Part III, Third Schedule Part I of the 1999 *Constitution of the Federal Republic of Nigeria*.

[7] B. O. Nwabueze, "*The Presidential Constitution of Nigeria*" (London, C Hurst & Co) 1982, p.381.

[8] Ese Malemi, "*Administrative Law*" Lagos, Princeton Publishers, 2013, p.478.

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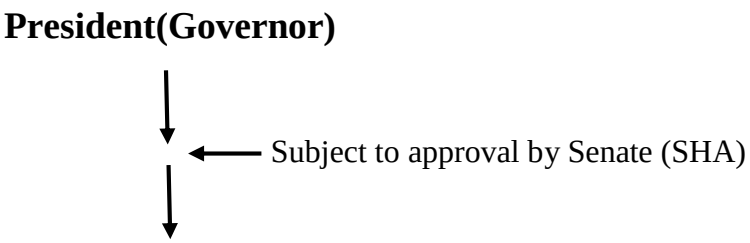
Consequently, most statutory corporations enjoy separate legal identity, perpetual succession, limited liability, contractual capacity and ownership and discretion todispose of property. For instance in NEPA v. Alli [9].

The defendant/appellant NEPA, now PHCN is a statutory corporation established and owned by the Federal Government of Nigeria, and charged with the generation, distribution and supply of electricity within and outside Nigeria. The appellant was supplying electricity to a sawmill factory of the plaintiff/respondentat Ijebu Ode in Ogun state. Due to negligence of the appellant, its transformer went up in flames. The plaintiff sued claiming damages. On appeal, the SupremeCourt held that the appellant NEPA was liable in damage to the plaintiff under the rule in Rylands v Fletcher and gave judgment in favour to the plaintiff on the ground of negligence.

The Public Service, then is an agglomeration of government services including the Civil Service under the direction of the Civil Service Commission, Independent National Electoral Commission (INEC), National Population Commission, the Police, National Judicial Council, Revenue Mobilization Allocation and Fiscal Commission, Federal Character Commission and others[10] as contained in Part I, Third Schedule of the 1999 constitution whose powers are so defined therein and whose membership are appointive[11] and can be removed[12] by the president subject, however, to the approval of the Senate at the Federal Level or appointed by the Governor and subject to approval by the state legislature.

The structure of the Public Service is as shown here under



The Civil Service, on the other hand, is the main arm of the Executive for translating government policies into concrete action. It involves the Ministries, Departments and Agencies regulated by the Civil Service Commission, headed by the Head of Service and Permanent Secretaries.

II. Power of Appointment by the President/Governor

The Power of appointment and removal of the officials of government from office is vested in the president, in presidential democracy and in the Prime Minister, inthe parliamentary system, subject however to approval of the legislature, and specifically the senate in Nigeria[13].

Accordingly, the president has the power to appoint the Secretary to the Government of the Federation (SGF) or Secretary to the State Government by the State Governor, Head of Civil Service of the Federation or that for the state by the Governor; Ambassadors, High Commissioners or other Principal Representatives of Nigeria abroad; Permanent Secretaries for Ministries and Extra-Ministerial Departments and any office on the personal staff of the President or Governor[14].

Furthermore, an appointment to the office of the Head of Civil Service shall not be made except from among Permanent Secretaries or equivalent rank in the Civil Service. An appointment to the office of Ambassadors, High Commissioners or other Principal Representatives abroad shall not have effect unless the appointment is confirmed by the senate. The constitution further provides that in exercising his powers of appointment, the president shall have regards to the federal character of Nigeria and the need for national unity and integration[15].

The Ministers, Secretary to Government of the Federation, ambassadors, High Commissioners, personal staff, chairmen and members of Boards and Commission expressly so stated in the constitution shall cease when the president's tenure expires[16]. The constitution introduces a caveat however, that provides that where a person has been appointed from a Public

[9] (1992) 8 NWLR, pt 259, p.279 sc.

[10] Section 153 of the *1999 Constitution*.

[11] Section 154 of the *1999 constitution*.

[12] Section 157 of the *1999 constitution*.

[13] Section 171(1) of the *1999 constitution of Nigeria*

[14] Section 171(2)(a)(b)(c)(d)(e) of the *1999 constitution*.

[15] Section 171(3)(4)(5) of the *1999 constitution*.

[16] Section 171(6) of the *1999 constitution*.

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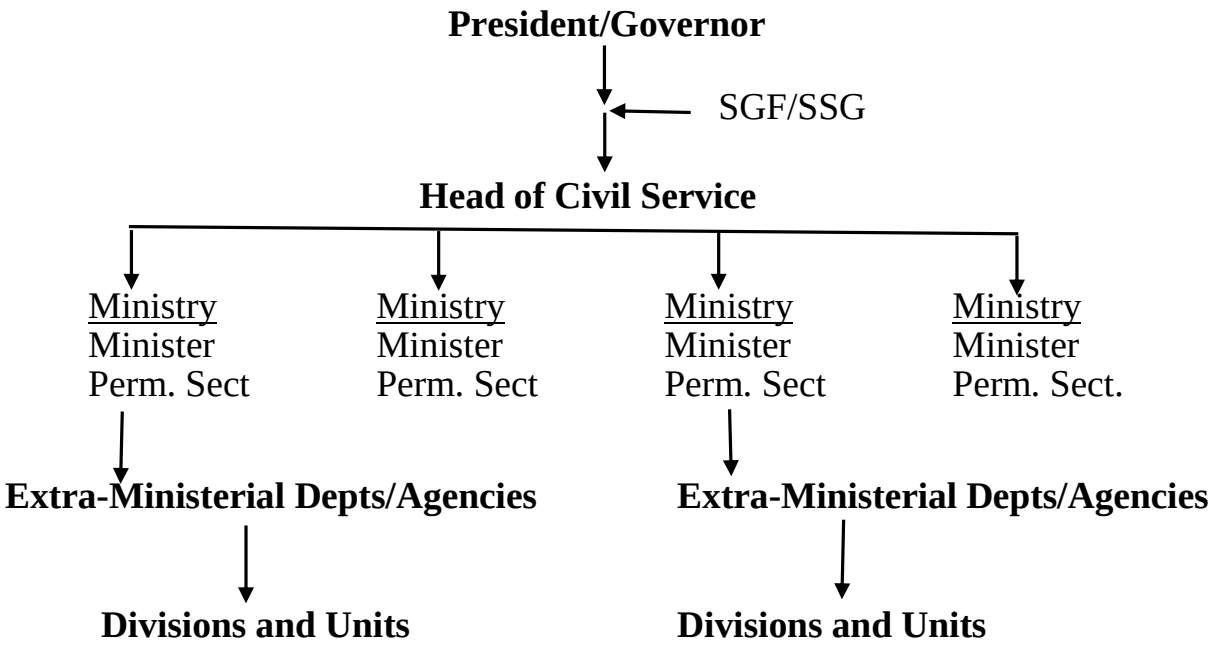
Service either of the federation or state, he shall be entitled to return to the Public Service when the president or governor ceases to hold office[17].

Inferably, while all other appointees go with the president or governor at the endof his tenure, the Head of Service and Permanent Secretaries remain in office to ensure general supervision of the ministries and continuity in the administration of government business.

A minister or commissioner once appointed becomes the political head of the ministry, exercising general control over the ministry. The Civil Service is usually a non-political body, relatively stable, rigid, following laid down conventions and rules, non-partisan and loyal to each successive government[18]. Thus, a career of Civil Servants is not affected by political vagaries and changes in government. However, the president or governor may remove a civil servant from office on such grounds as old age, inefficiency, corruption, abuse of office, embezzlement, mis-appropriation, disobedience, sabotage or in public interest[19].

The staff and offices in the Civil Service are organized into Ministries, Departments and Agencies and their structures, functions defined by the president or governor. In presidential democracy, the President exercises executive powers directly by himself or indirectly through the process of delegation of powers. Delegation here is the power by the President to another to act in an office on hisbehalf or the transfer of authority by one person to another to empower the delegate to perform some task on behalf of the donor of the power and such powers so delegated should be executed fairly, responsibly and in accordance with the provisions of the law. It has been argued that delegation of power is prone to abuse, encourages arbitrariness, but it reduces legislative workload, sort out easily technical issues in legislation, saves time and cost, allows flexibility in administration, reflect local needs and quickens legislative process.

III. The Structure of the Civil Service



In Nigeria, the president has a wide spectrum of powers over execution of laws particularly in the area of declaration of war[20] and appointment of armed forces chiefs (Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff and Chief of Air Staff) as he is himself the president and Commander-in-Chief of the armed forces[21], powers to make treaties[22], powers to grant pardon[23], security and public order[24], powers to appoint judges and Justices[25], power over revenue[26].

IV. Common Features of Public and Civil Services

Both Public and Civil Services have some duties and obligations to the citizenry. Such obligations range from transparency and accountability; Public/Civil

[17] *Ibid*
[18] *PHMB v. Ejitagha (2001) 11 (NWLR)* pt 677, p.154, SC.
[19] *Opp cite* pp.460-461
[20] Section 5(4)(a)(b)(c)
[21] Section 218(1)(2)(3)(4)
[22] Section 175(1)(b)
[23] Section 215(3)
[24] Section 213
[25] Section 162(2)
[26] Section 39 of the *constitution*.

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Servants owe the populace the duty of accountability and transparency. All individuals working in service of government must be accountable to the peoplefor their actions.

The constitution guarantees individuals right of speech[27] who can also ask their leaders questions or criticize government. It behoves the government or public officials to provide explanations to such questions to justify their conduct and action. Unsatisfactory explanations usually attract sanctions. It is therefore the duty of public servants to justify at all times the fairness and propriety of their decisions or action before an independent body.

The followings are the features of Public/Civil Service

a) Fairness in Execution of Law

The Public/Civil Service serves both the government and the entire citizenry as their actions affect the individuals in the society. Consequently, Public/Civil servant must be seen to be impartial, fair and without bias of any kind whether based on personal or political interest. They should be open to all sheds of opinions and tolerate positive criticism and be prepared to give an aggrieved member of the public fair hearing.

b) Probity

Honesty, integrity and incorruptibility are the foundations on which the Public/Civil Service strives. Public servants should eschew corruption, abuse of office and high handedness in the execution of policies and programmes and other forms of impropriety.

c) Impartiality

Public servants have to do justice to all manner of people irrespective of ethnic group, religion, race. In serving the public, public interest comes first. In the light of the above, all advice and input into policy-making and implementation should be devoid of political partiality.

d) Political Neutrality

One of the features of the Public/Civil service is that workers there in should stay aloof of political interaction so as to maintain the Public confidence, objectivity and integrity of the Service and check corruption and politicization of the Service. Administration may come and go, but the Civil Service remains, providing continuity between the out-going administration and the incoming governemnt[28]. This does not imply that Public servants are denied their democratic rights to vote for whatever candidate or political party they may choose to rule them. The Import of this is that they should not be seen to be partisan.

Ban on private business or drawing salaries from two or more different employments concurrently. The Public/Civil Service operates within rules which should not be flouted under any circumstance and should not allow his personal interest to conflict with his official duty.

Given these rules no Public/Civil servant should engage in more than one paid employment or practice a profession or transaction of any form of business or trade while in employ of the Public/Civil Service, receive salary, wages, overtime, leave allowance from any other office of same or similar government; accept, after retirement from service and should not receive pension from pensionfund, more than the one of his remunerative position or take up fresh employment of any kind.

e) Prohibition of Corruption

Public/Civil servants are prohibited from taking and giving bribe as an inducement for discharge of his duties or to do any arbitrary act prejudicial to therights of any other person knowing that such act is unlawful or contrary to government policy[29] or public interest. This implies that Public/Civil servants should not ask for or receive any property or benefits, gifts, donation except those from relatives and friends; should not accept loans from the government or approved financial institutions; should not operate foreign account.

f) Declaration of Assets

There is a constitutional requirement that all Public/Civil servants should observe and conform with the code of conduct which prohibits and deals with complaints arising from corruption, embezzlement, abuse of office[30]. The essence is to ensure that people entrusted with public office and trust do not abuse it. Under this provision, Public officials are required to declare their assets, properties and liabilities and those of their spouses within three months of assumption of public office, at the end of every 4 years and at the end of their tenure. Such submissionis made to the code of conduct Bureau. It is a breach of the code to make false declaration. The purpose of the declaration is to place a check on acquisition of elicit practice by the civil servants, with a view to checking those who are corrupt. To this end, any property acquired after a declaration which is in excess of what might be fairly attributable to legitimate income, gift or loan is deemed to have been acquired in breach of the code.

For avoidance of doubt, Public officers here denote any person occupying the office of the president, vice president, president and deputy president of the Senate, speaker and deputy speaker of the House of

[27] Ben O. Nwabueze, "*The Presidential Constitution of Nigeria*" (London, C Hurst & Co) 1982, p.383.

[28] Ben O. Nwabueze, "*The Presidential Constitution of Nigeria*" (London, C Hurst & Co) 1982, P.389

[29] Section 172 of the 1999 *constitution.*

[30] Part II, Public officers for the purpose of *Code of Conduct, 1999 constitution of the FRN*.

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Representatives, speaker and deputy speaker in State Houses of Assembly, all legislative and judicial staff in the senior cadre, the military, para-military, Police, Secretary to Government, Head of Service, Permanent Secretaries, Directors-General and Senior Officers, Ambassadors, High Commissioners, Chairmen and staff of Boards, Commissions and Local Government Council[31].

g) Prohibition for Holding Elective Office

No public/civil servant is required to seek elective office, unless such officer resigns his appointment. This is to maintain integrity of the Service and build confidence and trust.

h) Security of Tenure

Public/Civil servants, unlike political appointees, are career officers and have rights to receive pension and gratuity as regulated in law. Public officers in the Executive, Legislative and Judicial arms of government retire after putting in 35 years of service and/or when they attain the age of 60 years or whichever comes first[32].

There is security of tenure; no worker can be removed arbitrarily. All alleged misconduct are investigated and addressed in accordance with prescribed rules and procedures after granting the officer an opportunity for fair hearing.

V. Duties and Functions of the Public/Civil Service

The duties of the Public/Civil service are not spelt out in the constitution, but from its very nature, the service plays pivotal role in policy formulation and implementation, provides input into decision, maintenance of records and document. According to Nwabueze[33], the main functions of the Public/Civil Service include but not limited to:

i. The initiation of policy and advising the government on policy optionopened to it.
ii. Execution of policy after it has been decided by the government.
iii. Administration of the laws enacted by the legislature.
iv. Provision of security and continuity, serving as a store of knowledge of past government decisions and procedures.
v. Serves as a factor of unity and stability in the nation.
vi. Serves as an embodiment of government in the day-today life of the people and help to preserve the mystique and authority of the government through daily contact of officials at all levels with the public.
vii. As part of the elite, to play leadership role both within the service and in the community.

The public service has always been the tool for the implementation of development goals and objectives. It is the pivot of socio-economic growth and is responsible for the creation of appropriate conducive environment in which all sectors of the economy can operate maximally. Besides, it plays catalytic role in the economic sector by providing the enabling policies for all sectors of the economy.

As succinctly captured by Marshall and Murtala[34], the Public Service performs such functions as:

i. Implementing and enforcing economic, political and social policies of thegovernment.
ii. Designing and implementing Public Service Rules
iii. Raising revenue for the government.
iv. Ensuring managerial, political and financial accountability.
v. Serving the people.
vi. Monitoring and evaluating the performance of organizations (public, private, non-governmental) that are rendering services on behalf of government.
vii. Driving all development initiatives.
viii. Delivering quality public service (education, health, power, water, transportation, environment). Indeed, the Civil service is crucial to the overall efforts towards nation-building and socio-economic development.

[31] Michael J. Eyo, "*Groundwork of Political Science*" (Port Harcourt: Nimelias Press, 2017), p.228.
[32] B. O. Nwabueze, "*The Presidential Constitution of Nigeria*" (London, C Hurst & Co) 1982, p.380.
[33] Junaidu B. Marshall and Aminu M. Murtala, "*Public Service and Productivity in Journal of Politics and Law Research*" Vol.3, No.1, pp. 63-64.
[34] Section 169 of the 1999 *constitution of the Federal Republic of Nigeria.*

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Fundamental Similarities and Differences Between Public Service and Civil Service

S/N	Public Service	Civil Service
1.	Public service is made up of statutory and non-statutory bodies e.g. the military, police, corporation, parastatal, government owned companies.	Made up of the Ministries, Extra- Ministerial Departments and Agencies under the Ministries.
2.	Most organization in the Public service have board headed by Director-General or managing Director.	Headed by the Head of Civil Service and Minister/ Commissioner and Permanent Secretary.
3.	Some have their own different conditions of service.	Operated with Civil Service conditions, Rules, Financial Regulations circulars.
4.	Carries out specific technical services	Carries out general administration andprovision of input for decision making.
5.	Some are under the supervision of relevantministries.	supervised by the Head of Service.
6.	Possesses flexibility.	Rigid
7.	Have individual regulatory bodies	Is regulated by the Civil Service Commission.
8.	Some created by the legislature and few by the constitution.	Provided entirely by the constitution.
9.	Entitled to pension right.	Entitled to pension right.
10.	Officials declare assets and subscribe to code of conduct.	Official declare assets and subscribe to code of conduct.
11.	Generate budget for approval by the legislature.	Generate budget for approval by the legislature.
12.	Usually, some may be wound up or changed.	Usually stable and succeed successive administrations.
13.	Individual staff are personally liable for their action in tort and contract.	Individual staff are personally liable for their action in tort and contract.
14.	Appointment based on qualification, experience and expertise	Appointment based on qualification, experience and expertise.

VI. Conclusion

Public service[35] is said to encompass the Civil Service, statutory corporation, judiciary and legislature, educational institutions owned by government, the armed forces and the police and other organization in which the federal or state government owns controlling share or interest. On the other hand, the Civil Service is an organ of the executive created to ensure that policies and programmes of any government are carried out. It does not die because of its perpetual nature, non-partisanship, with qualified, and experienced personnel. It is indispensable as it continues the traditional role of keeping the functions of government running no matter what changes occur in the administration. It operates within rules which guide conduct[36].

The civil service is broken into ministries with political heads called Ministers at the national level and commissioners at the state levels. Members of the armed forces, police and other security organization, pubic corporations and public agencies are not part of the Civil Service, but in the Public Service.

However, it is not the categorization that really matters, but the ability of Public/Civil Service to properly direct their aspirations towards improving the general welfare of the citizens. The Public/Civil Service should indeed be the bridge between the government and the governed for an inefficient Public/Civil Service constitutes a barrier between the government and the people.

[35] Junaidu B. Marshall and Aminu M. Murtala, "*Public Service in Nigeria: An Overview of Function and Code of Conduct in Global Journal of Politics and Law Research*" , Vol.3, No.1, pp.61-69, March, 2015.

[36] S. Oronsaye, "The Challenges of the Public Service, in the *Nation Newspaper*" Friday September 28, 2010.

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VII. Recommendation

This paper recommends the creation of two Public Service Commissions, one for the armed forces, police and other security agencies and another for all corporations or parastatals and agencies that are not in the Civil Service of eitherthe Federal or State as a way of making the Public/Civil Service the engine room of the government.

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The Participation of Civil Society Institutions in Anti-Corruption Policy of Uzbekistan

By Ernazarov Dilmurod Zukhriddinovich
Tashkent State University of Economics

Abstract- Corruption is one of the global problems of our time. The article discusses the problems of the study of corruption and civil society in modern Uzbekistan. The main emphasis in the article is on the lack of a clear definition of the causes of corruption, as well as its relationship with civil society and, as a consequence, the ineffectiveness of methods of struggle. To increase the effectiveness of the fight against corruption at the global level, Uzbekistan needs international cooperation. Currently, there are a number of international organizations that pay sufficient attention to anti-corruption issues. Separately considered are the roles of civil society institutions in the fight against corruption.

Keywords: state, corruption, anti-corruption, anti-corruption measures, civil society; international non-governmental organizations, NGOs, democracy, public control.

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The Participation of Civil Society Institutions in Anti-Corruption Policy of Uzbekistan

Ernazarov Dilmurod Zukhriddinovich

Abstract- Corruption is one of the global problems of our time. The article discusses the problems of the study of corruption and civil society in modern Uzbekistan. The main emphasis in the article is on the lack of a clear definition of the causes of corruption, as well as its relationship with civil society and, as a consequence, the ineffectiveness of methods of struggle. To increase the effectiveness of the fight against corruption at the global level, Uzbekistan needs international cooperation. Currently, there are a number of international organizations that pay sufficient attention to anti-corruption issues. Separately considered are the roles of civil society institutions in the fight against corruption.

Keywords: state, corruption, anti-corruption, anti-corruption measures, civil society; international non-governmental organizations, NGOs, democracy, public control.

I. Introduction

Corruption as a social phenomenon exists in almost all countries of the world. However, for transit countries with a transforming socio-economic system, which includes all CIS countries. It is a big problem for every state. Corruption combined with the lack of professionalism of officials is the cause of both political and socio-economic crises. Corruption is promoted by political instability, underdevelopment and imperfection of legislation, inefficiency of institutions of power, weaknesses of civil society institutions and lack of strong democratic traditions. Domestic specifics add to the above-mentioned undeveloped political culture of citizens, the weakness of the judicial system, neglect of the law for the sake of profit, and impunity for violating the law when solving political and economic issues.

Corruption has been known for a long time and is taken for granted in many countries of the world. However, as a social phenomenon, it is recognized only in the last three to four decades. As for the current decade, it is marked by a great interest in corruption. (Gorta. 1998) The nature of corruption, its causes and consequences, anti-corruption measures are the subject of heated debate and debate.

Researchers' attention to corruption was rather stimulated by the public interest in reforms, their preparation and in-depth research. (McKitrick. 1968)

The level of corruption in different countries varies. Corruption is present in various countries, it is impossible to eradicate it. At the same time, while corruption does not replace state institutions, does not undermine the foundations of statehood, it does not penetrate into all spheres of society and does not pose a serious danger. As soon as corruption grows to the scale of the state in the state, outgrowing the critical mass, and begins to perform the functions of state institutions, it becomes dysfunctional for society. Penetrating into the culture of society, becoming a tradition, corruption thereby reduces the overall effectiveness of public administration and becomes a social problem.

In the fight against corruption, the role of civil society must be taken into account. Civil society is a barometer of the welfare of society and the state.

Ernst Gellner formulates a useful working definition of civil society as the sum of the various different non-governmental organizations that is strong enough to counterbalance the state without preventing it from fulfilling its role as the guardian of order and peace and as the arbitrator between big interests, but simultaneously preventing it from dominating and personalizing the rest of society (Gellner 1994). A strong but organically integrated civil society can be considered according to Paine as the best defense against the tendency towards corruption inherent even to the smallest state in his function as "guardian". (Powell, 2007).

In an effort to determine of the appropriate state-civil society mixture by de Tocqueville, we read that a strong civil society based on pluralistic voluntary associations, when combined with strong local governance, separation of powers, electoral processes and in any case vigilance are the most basic barriers to despotism. (Woldring 1998).

Thus, the study of corruption as a sociocultural problem, its impact on the spheres of the life of society and the development of effective anti-corruption policies are now an urgent need.

However, in the political sphere, corruption also has a strong negative impact, expressed in the displacement of the goals of politicians and the destruction of political values. Protecting electoral interests is no longer a political task. Politicians come to the forefront of personal enrichment and the achievement of their goals by corrupt methods. Political corruption has a particularly negative effect on the institution of elections. In this, bribery of officials and voters is observed. This, in particular, leads to a

Author: Doctor of Political Science (Ph.D), Department "Social Science", Tashkent State University of Economics (TSEU), Uzbekistan. e-mail: dilm79@inbox.ru

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reduction in political competition, the abolition of political life in the country, the emergence of "clans" and their usurpation of state power. In other words, corruption affects both economic and non-economic development factors.

II. Literature Analysis

As part of the study of this problem, scientific articles by domestic researchers like Kurpayanidi K, Ziyodinova N, Tolibov I. On some issues of combating corruption in Uzbekistan were studied // Problems of Science. 2019. No 2 (135). URL: https://cyberleninka.ru/article/n/o-nekotoryh-voprosah-protivodeystviya-korruptsii-v-uzbekistane (accessed: 04/22/2020). Zikrillaeva N. Further improvement of the anti-corruption policy of Uzbekistan // Economics and Finance (Uzbekistan). 2017. No. 12. URL: https://cyberleninka.ru/article/n/dalneyshee-sovershenstvovanie-antikorruptsionnoy-politiki-uzbekistana (accessed: 04/22/2020). Ernazarov D. Analysis of the Policy of the Republic of Uzbekistan Regarding International Non-governmental Organization, Journal of Political Science and International Relations. Vol. 3, No. 1, 2020, pp. 9-15. doi: 10.11648/j.jpsir.20200301.12.

In addition, the article analyzes the opinions, positions, facts of Russian and foreign researchers. For example, Litvyak Larisa Gennadievna, Plygunov Konstantin Andreyevich, Katasonov Andrey Viktorovich Corruption in Russia: history and modernity // ISOM. 2015. No4. URL: https://cyberleninka.ru/article/n/korruptsiya-v-rossii-istoriya-i-sovremennost-2 (accessed: 04/22/2020), Shady M.V. Corruption in modern Russia: problems of counteraction // Izvestiya TulGU. Humanitarian sciences. 2011. No2. URL: https://cyberleninka.ru/article/n/korruptsiya-v-sovremennoy-rossii-problemy-protivodeystviya (accessed: 04/22/2020).

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III. Research Methodology

The methodological foundations of this study are: the conceptual approach - the theory of types of development, which in this case is the most important methodological basis for studying the processes of political transformations; methods-comparative analysis, synthesis, observation, generalization, induction and deduction.

And also, the article includes information and actual data obtained by the method of content analysis of official documents, statements and speeches of officials, socio-economic indicators, statistical data, as well as the results of monitoring the media and the Internet. In addition, materials of international scientific-practical and socio-political conferences, seminars, working groups and committees are of practical importance.

IV. Analysis of the State of the Struggle of Uzbekistan Against Corruption

In Uzbekistan, corruption is one of the main obstacles to the development of the economy, the creation of a truly favorable business environment and investment climate. According to some estimates, the damage to the global economy from corruption is on average $ 2.6 trillion per year. This problem has not passed our country. In the index compiled by the international organization Transparency International, Uzbekistan over the past three years has improved its position by 12 points, however, this vicious phenomenon is still far from being completely eradicated. According to experts, corruption is most widespread in Uzbekistan in the medical, educational, banking, customs, judicial systems, prosecution, internal affairs, public services, and also when hiring citizens. For example, 25-30 percent of funds in the health care system are used inefficiently. In many areas, public procurement is not transparent. The main attention should be paid to ensuring openness and transparency in employment, public procurement, issuing permits, licenses and other processes.

One important means of eradicating this evil is public control. Today in Uzbekistan there are over 10 thousand non-governmental non-profit organizations. But their role and activity could be much higher. However, there is no holistic system that expressed their interests and acted as a bridge between these organizations and the state.

The current system of interaction with the public is not able to bring to the center issues of concern to the people on the ground and in various fields, and does not allow achieving tangible results. Many non-governmental non-profit organizations carry out activities “formally”. Large NGOs like Mahalla, Nuroniy, and the Women's Committee do not deal with acute social issues. They managed to solve them in time.

In turn, the resulting mistrust in the ability of the authorities to effectively resist corruption cannot but affect the assessments in counteracting this evil by international rating agencies. For example, the international non-governmental organization Transparency International noted an increase in corruption in the world - in the rating “The Corruption Perceptions Index” (Corruption Perception Index). Uzbekistan in this rating from 180 countries took 158th place. According to Transparency International, the Republic of Uzbekistan has not actually changed its position in the Corruption

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Perception Index for the year. So in 2017, Uzbekistan scored 26 points out of 100 possible, and in 2018, 27 points. At the same time, according to the study, our country fell to 158th place in the rating from 157th. This happened because in 2018, countries such as Tajikistan and Eritrea increased their positions in the ranking and rose one line higher than Uzbekistan.

At the legislative level, drastic measures have been taken in Uzbekistan to ensure the fight against corruption.

Firstly, the Law on Combating Corruption was adopted;

Secondly, the State Anti-Corruption Program for 2017-2018 was approved and successfully implemented;

Thirdly, a new law on public procurement has been adopted and a more transparent procedure has been established to prevent corruption in public procurement,

Fourth, the system of rendering public services has been simplified, and the openness of the activities of all state authorities, including courts and law enforcement agencies, has been ensured.

The issue of corruption is still a sensitive problem for ordinary citizens, which requires a constant and systematic approach to combating this phenomenon, not only of law enforcement agencies, but also of ordinary citizens and the whole society.

When it comes to corruption at the highest state level in Uzbekistan, it is necessary to pay special attention to two facts.

The first fact: The former Prosecutor General of the Republic of Uzbekistan Rashid Kadyrov, holding the post of Prosecutor General of Uzbekistan in 2000-2015, committed a number of crimes by prior conspiracy with a group of people who also held senior positions in law enforcement bodies and the prosecutor's office. R. Kadyrov headed the Prosecutor General's Office of Uzbekistan for 15 years. He was arrested in February 2018 on charges of extortion, bribery and abuse of power. The investigation collected lawsuits from entrepreneurs who admitted that they were forced to give bribes to Kadyrov. The total amount indicated in the statements was approximately half a billion dollars. In mid-2018, the President of Uzbekistan promised that in the coming months, Kadyrov will tell on television about his crimes.

The second fact: G.Karimova had been serving a five-year sentence in house arrest stemming from a 2017 conviction (originally for 10 years) for embezzlement and extortion. She was taken from her daughter Iman's Tashkent apartment to a prison in March 2019. The authorities claimed she had violated the terms of her house arrest. A few days later, the U.S. Department of Justice announced the unsealing of charges against G.Karimova and Bekhzod Akhmedov. Akhmedov is the former CEO of an Uzbek subsidiary of MTS, a Russian telecom that agreed to pay a $850 million resolution in relation to the bribery of Uzbek officials. Karimova and Akhmedov, the DOJ said, were being sought "for their participation in a bribery and money laundering scheme involving more than $865 million in bribes from MTS, VimpelCom Limited (now VEON) and Telia Company AB (Telia) to the former Uzbek official in order to secure her assistance in entering and maintaining their business operations in Uzbekistan's telecommunications market". (RFE/RL's Uzbek Service. 2020)

These two figures were part of the country's political elite. They held high positions and unlimited privileges for many years. Some experts believe that the policy of I. Karimov is to blame, which covered all illegal cases and activities of people close to him. As a result, this led to the development of corruption in all spheres and branches of public life.

It is worth noting that civil society institutions play a significant role in the fight against corruption. This was emphasized by the President of the Russian Federation V.V. Putin, speaking about the organization of work on combating corruption, he noted: "The most important thing, we need to develop, of course, civil society institutions and control by the civil society and the media over the state apparatus and Government Administration". (Anti-corruption Committee. 2019)

Turning to the analysis of the situation with civil society in Uzbekistan, it should be emphasized that we have never had a civil society of a European standard. In all CIS countries, the state has always dominated society. On this basis, a bureaucratic tradition of political power and practice was formed: a citizen is the property of the state. And all his actions are either determined by power, or are an attempt on power. The state has become a comprehensive tool for the implementation of tasks aimed at its reproduction. All spheres of public life in this case required total control by the state. Without this, the very existence of a bureaucratic state became impossible.

The success of the fight against corruption will depend on whether civil society is able to deal more actively with these issues, whether it has sufficient technical capacity, financial resources and access to information, and whether it is provided with the political space necessary to fulfill this crucial role of oversight and protection of rights. (Rafiev. 2020)

V. Cooperation with INGOs in the Fight against Corruption

The most important steps taken in Uzbekistan during the years of independence were the country's accession to the UN Convention against Corruption in 2008, the signing of the Istanbul Plan of Action against Corruption of the Organization for Economic Cooperation and Development in 2010, and the

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adoption of the Law on Combating Corruption in 2017 year.

The effectiveness of our reforms is largely determined by four important factors - ensuring the rule of law, effective anti-corruption, increasing institutional capacity and the formation of strong democratic institutions. It is known that digital technologies not only improve the quality of products and services, reduce costs, but are also an effective tool in the fight against corruption - the most serious problem that bothers me very much. The widespread adoption of digital technology contributes to the effectiveness of public and public administration, the development of the social sphere, in a word, a dramatic improvement in people's lives. (Mirziyoyev. 2020)

Unfortunately, corruption in various forms impedes the development of Uzbekistan. If corruption is not eradicated, then it will not be possible to create a truly favorable business and investment climate, no sphere of society will develop.

It should be noted that in Uzbekistan, entrepreneurs are still faced with corruption in such areas as the provision of land, cadastral, customs, banking services, licensing, and public procurement. This is evidenced by numerous appeals addressed to the President, messages in the press and social networks.

Until all sectors of the population and the best specialists are involved in the fight against corruption, until all members of society are in a place to fight, it is not possible to achieve their goals. Time itself requires the creation, in order to organize the systematic implementation of these tasks, a separate anti-corruption body accountable to parliament and the President. In our opinion, the president's idea of creating an anti-corruption body is important for economic and social growth and strengthening the country's positive image. However, the question remains the level of influence and the effectiveness of this body.

We believe that the state of cooperation of Uzbekistan with international non-governmental organizations is not satisfactory. Since the World Bank, Transparency International, the Funds F. Ebert and K.Adenauer, Freedom House, etc., cooperate with several international non-governmental organizations in this country in the country.

We propose in this direction it is necessary to cooperate with the following international organizations: International Anti-Corruption Academy, International Association of Anti-Corruption Authorities, International Forum of Business Representatives, Independent Anti-Corruption Commission, TRACE International.

Within the framework of the granted powers, international non-governmental organizations organize various thematic events, print various anti-corruption publications, and provide consulting services. They are the link between civilized business and government. They make proposals to improve existing legislation and develop new projects. They conduct an anti-corruption examination of legal acts and their projects, etc.

It should be noted that, taking into account the different powers of international non-governmental organizations, they provide assistance in advising and analyzing the situation and, within the framework of the legal field, offer a solution to the problem: preparing a letter of appeal, appealing decisions and decisions of control organizations, and other options. But if there is a gross violation of the law, for example, extortion of a bribe, then it is not possible for non-state structures to resolve this situation, it is necessary to involve the authorized law enforcement agencies. Therefore, do not forget that each body and company has its rights, duties, functions, in accordance with which their work is carried out.

We adhere to such a position that if Uzbekistan will cooperate with these organizations in the future, then new opportunities to fight corruption with the help of effective mechanisms is collapsing. In addition, it contributes to the improvement of the national legislative framework and anti-corruption methods. Interaction at the international level can give a powerful impetus to the liberalization and modernization of the country.

VI. Vaccine of Honesty against Corruption

The fight against corruption in Uzbekistan was announced back in 2016. In 2017, ten detentions of civil servants in the act of receiving or giving a bribe were reported, and from July to October 2018, almost 50 similar facts appeared in the republican media. In May 2016, Mirziyoyev approved the anti-corruption program for the coming years. According to the document, state bodies obliged to assess corruption risks and compile lists of officials most exposed to these risks.

The head of state drew particular attention to this problem, noting that corruption penetrated deeply into all sectors of the population, including education and health. "We need, each of us, "a vaccine of honesty" in order to instill all the officials and responsible leaders. The main question: where to get such a vaccine? The analysis shows that today corruption exists in all areas. At us 60% of teachers did not pass certification - how then do they work? We must confront this universal misfortune, everyone must start with himself. (Mirziyoyev. 2020)

The vaccine of honesty is needed not only by prosecutors, but also by all public servants. Since corruption occurs when the process is related to the state budget. (Artykova. 2020) However, we believe that it will be correct if a legal framework is developed in which prosecutors and lawyers can intervene in the process only if the complaint is submitted by a citizen.

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We believe that in developing the "vaccine of honesty" an important part of it should be the religion of Islam. Because, through the religion of Islam, one can bring to the awareness of people how badly corruption affects the lives of people themselves, society and the state. The most important thing is that each person in his actions thinks about the Day of Judgment.

According to the Holy Quran, any misappropriation of another's property is a sin. And the more sinful is the bribery of officials. "Do not misappropriate each other's property and bribe judges with this [property] in order to intentionally appropriate part of the property of [other] people in a sinful way," says Allah Almighty in the Holy Quran (2/188). In another ayah, Almighty Allah spoke about the corrupt practices of previous generations and warned Muslims not to make such mistakes: "You see that many of them (that is, representatives of former beliefs) try to overcome each other in sin, enmity and eating the forbidden . What they do is disgusting! (5/62, 63). (Islam-today. 2020)

Muslim theologians believe that this hadith in the form of allegory perfectly describes the essence of corruption. It seems that someone's personal interest will be realized, which, at first glance, will not affect others, but in fact we are talking about the complete collapse of the social organism.

Young independent states with transitional political and economic systems, as history shows, are becoming particularly vulnerable in terms of exposure to corruption. All due to the fact that new levers of transformation of society are still being formed. And morally obsolete social mechanisms are very difficult to eliminate from the consciousness of citizens. It is in such a difficult situation that they begin to contribute to the development of corruption.

To increase efficiency against corruption in Uzbekistan, it is necessary to pay particular attention to the following issues:

In our opinion, at the moment there is a need to strengthen public and social control by political parties, NGOs and civil society institutions.

Create a platform for discussing anti-corruption issues with the participation of experts from foreign non-governmental organizations.

Given the national mentality and centuries-old traditions of our people, it is necessary to develop a national program to combat corruption.

It is necessary to ensure transparency in the activities and work processes of state bodies through the prism of the media and Internet bloggers.

It is necessary to develop a system of complex control, providing for the development and implementation of internal anti-corruption measures.

The need for development and implementation with the involvement of foreign experts of all the organizational and legal foundations of the declaration of property and income by state employees is being updated.

VII. Discussion

The most consistent issue of the cultural conditionality of corruption is addressed by Brian Hastid. Using a statistical analysis of the correlations between the corruption index and the cultural dimensions of 50 countries, he came to the conclusion that a high level of corruption should be expected in countries with a low level of economic development, significant state control over economic life (the share of GDP controlled by the state), significant imbalances in income level between population groups, as well as with special cultural characteristics: a large distance of power, a high level of collectivism. (Husted, Wealth. 1999) The researcher reasoned correctly in this matter. As practice shows, during the reign of I. Karimov, the level of corruption in the country was high. This was facilitated by the low level of economic well-being, localism at all levels of government, social inequality, low salaries in social spheres, etc.

There are many forms (manifestations) of corruption: bribery, favoritism, protectionism, lobbyism, illegal distribution and redistribution of public resources and funds, illegal appropriation of public resources for personal purposes, illegal privatization, illegal support and financing of political structures, extortion, provision of soft loans, orders et al. (Ledeneva. 1998)

Under the conditions of Uzbekistan, the illegal distribution and redistribution of public resources and the strong influence of localism on the country's socio-political life developed covertly.

In her study, Rose-Akkerman identifies two types of societies - kleptocracy, in which corruption is organized at the top of the government and state, where corruption is the sphere of activity of a large number of bureaucrats. According to the second criterion - societies where there are a small number of major private corrupt actors and where the payment of bribes is decentralized. (Rose-Ackerman. 1975)

The American corruption researcher M. Johnston proposed distinguishing several types of corruption: bribes of trade officials; relations in state systems, including patronage on the basis of compatriot, family, party principles; friendship and nepotism. (Johnston. 1982)

Analyzing the relationship of state power in the person of officials with entrepreneurs, we can say that Uzbekistan often encounters three models of corruption:

1) Monopolistic- The activity of individual entities in the country. For example, the auto industry of Uzbekistan (Uzavtoprom);
2) Deregulated- Bureaucratic structures of regional administrative bodies of state power in the country;

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3) Competitive- The public good is distributed by state bodies, by more than one bureaucratic structure.

VIII. Conclusion

Thus, at this stage of historical development, civil society in Uzbekistan cannot fully resist corruption. Since corruption exists precisely in the society in which we live, whatever it may be: "a strong civil society" or "unorganized civil society". In essence, corruption and civil society are parts of the whole that cannot exist separately. First of all, for the successful fight against corruption, an adequate assessment of the studied social phenomena: "corruption" and "civil society", their essence, internal relations and interaction with each other is necessary.

Formed civil society, firstly, will not itself encourage corruption, and secondly, it will fight hard against it. The authorities cannot fully fight corruption. But corruption will never be beneficial to citizens, and that is why they should strive to do everything to fight it. (Rafiev. 2020)

Anti-corruption by civil society institutions together with state authorities will be effective; they will work together against all threats. Coherence and consolidation of anti-corruption efforts of various structures creates significant synergy. The effect of concerted action far exceeds the result of disparate efforts of a larger quantitative and qualitative composition of participants in various anti-corruption projects and programs. It is the synergistic effect that can become the most important factor that can affect the reduction of corruption in Uzbekistan.

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The Imperatives of State Police in Nigeria

By Michael J. Eyo
Obong University

Abstract- There has been repeated calls for the Nigeria Police Force to be overhauled to reflect current realities and international best practice. This agitation is informed by the centralized architecture of the police force with it attendant gross inability to maintain law and order effectively and efficiently. Nigerians have specifically demanded for establishment of State Police to accord with what obtains globally and to give the governors powers to deal expeditiously with incessant armed robbery, kidnappy, militancy, banditry, insurgency and other forms of criminality in their states. This work then seeks to examine the feasibility of establishing state police apparatus as panacea for addressing insecurity in Nigeria. The work adopted the Historical/ Descriptive Approach and Conflict and Alienation Theoretical frameworks for its analysis. Findings show that decentralizing the Nigeria Police Force can curb or reduce insecurity to its bearest minimum in the country. The study therefore recommends the establishment of State Police to bring security nearer to the people and enable state governors to quickly respond to security threats and emergency in their states without waiting endlessly for the Nigeria Police Force.

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The Imperatives of State Police in Nigeria

Michael J. Eyo

Abstract- There has been repeated calls for the Nigeria Police Force to be overhauled to reflect current realities and international best practice. This agitation is informed by the centralized architecture of the police force with it attendant gross inability to maintain law and order effectively and efficiently. Nigerians have specifically demanded for establishment of State Police to accord with what obtains globally and to give the governors powers to deal expeditiously with incessant armed robbery, kidnappy, militancy, banditry, insurgency and other forms of criminality in their states. This work then seeks to examine the feasibility of establishing state police apparatus as panacea for addressing insecurity in Nigeria. The work adopted the Historical/ Descriptive Approach and Conflict and Alienation Theoretical frameworks for its analysis. Findings show that decentralizing the Nigeria Police Force can curb or reduce insecurity to its bearest minimum in the country. The study therefore recommends the establishment of State Police to bring security nearer to the people and enable state governors to quickly respond to security threats and emergency in their states without waiting endlessly for the Nigeria Police Force.

I. Introduction

The objective of the Police and policing are primarily to ensure the protection of lives and property of any given society, for human survival, peace and progress of any community is inferably anchored on well-trained, responsive, and apolitical security architecture, particularly in a country like Nigeria, a multi-ethnic and multi-cultural geographical environment with very large landmass and population. Before the advent of colonialism, the various ethnic groups and communities in Nigeria had various forms of police and policing for maintaining peace, law and order. These were usually carried out through the instrumentality of secret societies and hunters (Ohundele, 2018). Such secret societies like Ekpe in Akwa Ibom and Cross River States and Ogboni in the South Western States of Nigeria were used for fighting crimes, and criminality during the pre-colonial era. In the South Eastern states of Nigeria, the age grade and masquerade society made up of all adult male citizens played the role of policing and fighting crime, hence policing of the entire society was the responsibility of all adults (Aniche, 2018) These indigenous law enforcement agencies were jettisoned by the colonial regime, though some communities still use the hunters and vigilante up till date in policing the community, even in combat such as in the Sambisa forest in Borno State, North East Nigeria ravaged by Boko Haram insurgency, banditry and cattle rustling.

What is today the Nigeria Police Force was established in 1830 after the merger of Lagos Police Force and Royal Niger Constabulary, but has over the years been overstretched, and increasingly suffered neglect by successive administrations in the country. However, in spite of its deluded image and centralized structure, it has struggled within limited resources and lack of training and retraining, to maintain some form of law and under *(Aremu, 2018)*.

The concept of State Police System is not alien to many countries, particularly the advanced Western Nations. The State Police System is an essential ingredient inherent in federalism in which powers are devolved to the federating units including policing. Unfortunately the 1999 constitution of Nigeria in section 214 part III of supplemental provision, exclusively vests policing functions on the federal government and places police and other government security agencies in the exclusive legislative list, a distortion of federal principle. Nigeria has had a centralized police structure, adopting top-bottom approach even before independent. No other federal system attempts or adopts this approach.

The USA whose Constitution Nigeria adopted in 1999 offers a template for decentralized police structure with about 18,000 police departments, federal, state, municipal, county, village, college, campus and corporate organizations. *(Punch, 2018)*. State Police in USA are also known as Highway patrol, State Highway Patrol, State Troopers, all carrying out law enforcement activities including criminal investigations across the state. They collaborate with local police (county and village) to address complicated criminal cases. In other words, policing in the USA involves independent autonomous police system at different levels of governance in the country. This implies that law enforcement in the USA is decentralized and the Federal police authorities deal with violation of federal laws while states police enforce state laws.

In Australia, a federal state, police and policing functions are vested in the federal, state and local governments. Under the law, bulk of general policing is the responsibility of the states but shared with the municipalities. Australian federal police mainly coordinates the state and Local Government Forces and extends same to New Zealand Police in a unique transnational arrangement. In India, general police duties are undertaken by the different 29 states and 7 Union territories, while the federal police provide

Author: Ph.D, Dept. of Political Science/Public Administration, Obong University, Obong Ntak, Akwa Ibom State, Nigeria.
e-mail: wasanim2006@yahoo.com

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support and deal with specified offences and national security issues.

The German Constitution vests general policing in the Lander (States). Some important cities in Germany also have distinct and independent police organizations of their own.

In Canada, the basic law vests law enforcement in the 10 provinces, though about 8 of the provinces have contracted out their policing function to the Royal Canadian Mounted Police that also policies the country's three territories covering financial, border and national security issues. Quebec and Ontario, because of their French heritage, retain control over policing in their provinces. Municipal and local police force also exist alongside the federal and state police agencies. Most native Indian nationalities managing the semi-independent First Nation Resources also have autonomous police units in their communities. In Britain, the UK has not dismantled its unitary system of government, but has devolved policing into 45 territorial and 3 special police forces.

An important feature of federation is devolution of powers and in any federal state, the primary responsibility for law enforcement should necessarily lie with the federating units. This state of affairs obtains in enduring and lasting federal democracies mentioned above but in Nigeria, a federal state, police and policing are centralized. The police as the first line of defence for the citizens should be very close to the people as much as possible, but in Nigeria the police authority is far removed from the people and this tends to limit the effectiveness of the Nigeria Police Force. The Ineffective central policing system has led to deteriorating insecurity, insurgency terrorism and banditry in the North East, and violence, kidnapping, armed robbery and impunity have overwhelmly ravaged every other region of the country.

The Nigeria Police Force as presently constituted has an Inspector General of Police appointed by the President, at the head. The state governors are the chief security officers of their respective states and they may only direct their respective state commissioners of police, on security issues but the commissioners may only act with the express permission of the Inspector-General. This has made the functioning of the police nebulous and ineffective (Sun, 20118). Beside the present national policing architecture is archaic and at variance with international best practice, giving rise to grave security implications.

If Nigeria had adopted the state police system, all the major political incidents, increasing wave of criminality heightening insecurity would have been checkmated. The police structure has grossly incapacitated the smooth administration and effective policing of the country. With noticeable cracks showing all over the country, the Police organization as presently structured appears to have been overwhelmed by the gravity of the workload assigned to it (Okezie, 2021).

Furthermore, the long-standing and antagonistic posture of the citizens against the police personnel due to police brutality, corruption among its rank and file, hijacking of the police by the political class, poor infrastructural facilities and welfare further compound and decimate effective policing in Nigeria. Beside, lack of statistical data on the police and the personnel and lack of adequate equippment have created an overwhelming operational and administrative burden on the country (Okezie, 2021). The size of the police compared with the area and size of the population, alienation of the different segments of the country, mutual distrust and mistrust, cultural and language barriers are other challenges of the present unitary police structure in Nigeria.

Given this avalanchant of challenges, does the present structural architecture of the Nigeria Police Force maintain law and order in the country, how effective have the state governments been able to maintain internal security in their respective States under the instrumentality of the centralized police structure, what are the challenges of policing in Nigeria and how can these challenges be surmounted? These and other questions are what this study seeks to address.

This study proposes that the centralized structure of the Nigeria Police Force has grave implications for security and is the major cause of insecurity, (terrorism insurgency, banditry, kidnapping, armed robbery, proliferation of small arms and light weapons) in the country. The objective of the study is to examine if actually the centralized structure of the police and other security agencies has led to insecurity in the country. The study adopts the historical/descriptive model. The work would be immense assistance to the police institution and other security agencies and policy makers, provide input for further research and fill gap in literature in the area.

The study adopted both the Conflict and Alienation theories as its theoretical frameworks. Conflict theory holds that the society is divided into different strata or classes with divers interests. Ross (1983) maintains that conflict occurs when parties disagree about the distribution of materials or symbolic resources and act because of the incompatibility of goals or perceived divergence of interests. Similarly, Coser (1967) defines conflict as a process or struggle over values and claims to scarce resources, status and power in which the aim of the proponents are to injure their rivals. Conflict results from disagreement between groups (Nwanegbo and Alumona, 2009). It may also arise from the pursuit of divergent interests, goal and aspiration by individuals or groups in defined social and physical environment (Otite, 1999), particularly over resource organization, mobilization and allocation. Resources in every society are scarced, and are

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accessed inequitably in favour of the rich and elite of the society who support and struggle at all times to maintain the status quo, while the poor agitate for change. This inequality generates conflict in the society. The police in Nigeria was covertly created not to serve the interest of all citizens but to protect the interest of the rich or elite at the expense of the poor (Alemika and Chukuama, 2000). According to this theory, the police exist to perpetuate this inequality thereby furthering the suppression and oppression of the poor who are alienated from the commonwealth by the rich in the society. The role of the police is therefore to suppress the poor and powerless with a view to protecting the interest of the rich and those in power (Broaden, 1978), and as succinctly put by Broaden 1982), the police are structured organizationally and ideologically to act against the marginalized strata of the society. This informs why most police personnel in Nigeria are not civil.

The alienation theory which proponent include Karl Marx, Durkheim, Robert Baluner, is a condition in social relationship which depicts a low degree of integration or common values and a high degree of distance, estrangement, isolation, separation or severance between individuals and a group in a community. Under this condition, some or most people withdraw their affection for a particular institution of government due to inherent characteristics that are believed to be at variance with what the people expect. Alienation creates that sense of powerlessness and helplessness among the people, particularly when an acceptable pattern of conduct or delivery of social services or value has broken down and are no longer effective as rule of behavior. The condition of complexity and conflict created there from give the people the impression that the enforcement of the rules of conduct can no longer be adequate as guidelines of acceptable conduct. Consequently individuals tend to rely on their own judgment and not on services offered by the government institution concerned. The police in Nigeria is daunted with bribery and corruption, extortion, illegal road blocks, extra-judicial killings, intimidation and use of excessive force, supplying arms and ammunition to armed robbery gangs, mass and illegal arrests, revealing the identity of informants to the criminal involved, playing ignoble roles in election, sponsoring violence. Consequently the citizens no longer look up to the police for protection but have resorted to self-help measures or self-defence or mob action for their own protection including unregulated and often violent reprisals against suspected sources of their collective endangerment (Ekeh, 2002).

According to the 1999 Constitution of Nigeria, the state governors are the chief security officers of their respective states who preside over state security meetings but cannot direct the Commissioner of Police on security issues affecting their states. The commissioner can only carry out the instructions of the governor if approval is obtained from the Inspector-General of Police or the National Headquarter of the Police Force. If State Police Force was created in Nigeria, most of the security threats would have been completely addressed or minimized.

II. Historical Perspective

The idea of uniformed policing of an area was first mooted in 1667 by the government of King Louis XIV of France. It was specifically aimed at protecting the city of Paris which used to be the largest city in Europe. The police were mandated to purge the city of miscreants and hoodlums. Ever since then, governments all over the world have emulated the pattern of policing and many still retain the state police system to suit their domain. Countries in Europe, Russia, the USA, UK and others have all adapted the state police system which has turned out to be the best practicable policing system as it is easy to adapt administratively and operationally (Okezie, 2018).

The Nigeria police was first established in 1820 as a constabulary with 200 men for 3 major segment of the country-the North, East-Calabar and West-Lagos as at then. The Nigeria Police was then a paramilitary organization. In 1896 the Lagos police was formed, the Niger Coast Constabulary was earlier established in Calabar in 1894 under the newly proclaimed Niger Coast Protectorate. Each was specifically set up with unique operational features. The British colonial government used the police to enhance their indirect rule system by collaborating with the traditional rulers to better enforce security. With the increasing rate of development and the establishment of a unitary government, there was the need for the centralization of the police. However, the system became unwielding as population increased and record were not easy to compute and kept. Administrative and operational procedures also became cumbersome (Okezie, 2021).

In 1914, the Northern and Southern Police Force were united. It should be noted that the Royal Niger constabulary established in Northern Nigeria was later split into Northern Nigeria Police Force and Northern Nigeria Regiment (Iwarimie-Jaja 2003). In 1930 the present Nigeria Police Force with headquarters in Lagos was fully established with initially an. Inspector-General of Police as the commandant (Igbo 1999) and later changed to Commissioner in 1937 but latter reverted back to IGP in 1951, while regional heads were called commissioners of police (Kupolati, 2007).

The amalgamation of the Southern and Northern Police Force in 1914 also saw the establishment of special police branches such as the Criminal Investigation Department, the Immigration and Passport Control, the Central Motor Registry, the Police Colleges, the Force Communication, the Police Band etc. (Iwarimiejaja, 2002:). The unification of the forces

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also made it impossible to fight the alarming increase in such crimes as murder, manslaughter, counterfeiting, theft, housebreaking, child stealing, illegal distillation of gin and illegal mining (Igbo, 1999: 122). The force was later reorganized and a Police Council vested with powers in respect of policy, organization, finance, personnel and condition of service was established.

Garba (2012) has noted that the idea of the modern Nigeria police is a creation of colonial rule in which its history and function were to serve the interest of the British colonial rulers. It was organized as a quasi-military squad by the colonial government i.e as an instrument of coercion, riot control, oppression and suppression of discontentment and protests by the colonized people. In other words, the colonial police was established neither as agent for promoting the rule of law, human rights, community safety nor for protection of the citizenry, rather, the police was used as a coercive force to further the goal of colonial annexation of territories and to quench protests as well as opposition against colonial rule. It was anti-people. In fact the establishment of the colonial police was more to serve and protect the commercial interest of the colonial masters. This pitched the police against the people they were meant to protect and there were series of clashes between both parties. Right from the beginning, the purpose of the Nigeria Police Force (NPF) was to protect government functionaries, sometimes against the natives. The post-colonial Nigeria Police is a carryover from the colonial past. In this respect, the character of the Nigeria police as in the colonial period, has deliberately been designed to appear tough and intimidating to the civil population thus, alienating or disconnecting the people from the police. (Ekeh, 2002). The history of community-police relation in Nigeria, has thus been described as the idea of policing imposed on the country by the colonial master calculated to foster antagonism between the police and the people. To make matters worse, the corruption perception of the Nigeria police by the Nigeria people over the years has heightened. Consequently the Nigeria police is perceived as the most corrupt government institution both locally and internationally, worsening community-police relations. Under this state of affairs, the Nigeria police has been unable to fight crime let alone prevent it (Ikuteyijo and Rotimi, 2012).

III. The Nigeria Police and Private Security Organizations

Consequent upon the rising insecurity, a number of private security organizations have emerged in Nigeria. These include the neighbourhood watch, vigilante, night and Day watchmen, native or ethnic militia. Although, some vigilante security outfits may have started as neighborhood watch, they are not exactly the same. Vigilante and neigbourhood watch are both private security organization primarily made up of volunteers from the community but differ in their modus operand.

Vigilante is a private individual who punishes an alleged law breaker, or participant in a crime by metting, out extra-legal or extra-judicial punishment to an alleged lawbreaker. However, not all vigilant activities are illegal, sometimes, vigilante may apprehend or catch criminals and hand them over to the Police for investigation and prosecution. (Aniche, 2018).

Prior to the advent of the Nigeria Police Force in 1830 by the British colonial administration, there were various groups performing the role of policing the communities in what is today known as Nigeria. In some segments of the country secret societies, age grade were used for protecting the communities. This model of policing was supplanted with the colonial police in 1889 to provide civil and quasi-military function to the British colonial administration in Nigeria. According to Tamuno (1970), by far the most crucial factor in understanding the existence in Nigeria of semi-military police lies in the nature of Nigerians opposition to British jurisdiction and rule. In otherwords, the troops and police were ready instruments of enforcing government order when peaceful overtures failed. In the circumstance, the police formed the frontline of defense in Britain's attempts to maintain law and order and soldiers were usually drafted in whenever police action failed. In fact, there was no distinction between the police and the military during colonial regimes.

Vigilante justice was spurred on by incessant criminal activities by unscrupulous individuals due to either non-existent or insufficient punishment by the police or non-prosecution of criminals thus causing community members to volunteer to protect the community. Vigilante as non-governmental groups have therefore emerged in response to increasing incidence of theft and armed robbery. Vigilante groups have existed in Nigeria for decades not only under civilian rule, but also during the previous military regimes. They have traditionally been seen as law and order enforcement individuals and groups where the traditional functions of the police to maintain law and order has failed to check criminality in the society. The concept of vigilante in Nigeria specifically refers to un-armed voluntary citizens or groups created in local communities to help the security agencies confront common criminality and social violence by arresting suspected delinquents and handing them over to the police. They may arrest suspected criminals provided that they are unarmed and the suspect is immediately handed over to the police (Anichi, 2018). One noticeable characteristics is that with the corruption in the police, the suspected criminal easily find their ways back in the streets, terrorizing people and even in extreme cases, unleashing vengeance on the people that handed them

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over to the police or masterminded their arrest by the police.

Beside the police have also been known to have disclosed or revealed the identity of their informants to the suspected criminals before and after being released from police custody under-questionable circumstances, who later go after the informants. The police in many instances have also failed to redeem the price tag it puts on suspected criminals who are at large. Beside they are alleged of bribery and corruption, extortion, illegal road blocks, extra-judicial killings, intimidation and the use of excessive force on innocent citizens, giving arms to armed robbers, involvement in armed robbery operations, mass and illegal arrest, and unable to confront armed robbers and other hardened criminals. Police are sometimes used as private body guards and tugs to rich politicians and play ignoble role in election violence. All these perceptions of the police by the people have disconnected them from the public. At time community members who are police informants are derided. Under this state of affairs, many Nigerian communities no long look up to the Police Force for their protection but rather have resorted to other means like self-help or reprisals against persons suspected to endanger their common existence the community (Ekeh, 2002). The increased incidence of crime since the end of the military regime has resulted in the proliferation of heavily armed vigilante groups in nearly every corner of Nigeria. Erosion of confidence on the police by the people and mutual mistrust or distrust between them has led to the emerging new vigilante security operations. The vigilante groups no longer hand over suspected criminals to the police but instead now carry out instant justice or extra-judicial execution and killings of suspected criminals. This disconnect between the police and the community has heightened tension in the country.

In certain communities, a person may choose the role of vigilante as a result of personal experience as opposed to social demand. Persons seen as escaping from the law or above the law are sometimes the targets of vigilante groups. It may target person or organizations involved in illegal activities in general or it may aim at a specific group or type of activity. It has become a common sight for vigilante groups to engage in violent assault of their targets or verbally attack them or vandalize their property.

Neighborhood watch, on the other hand, is an organized group of citizens who aim at preventing crime and vandalism within a neigbourhood, using legal means of bringing people to justice. In other words, neighborhood crime watch is not vigilante security apparatus, because when suspecting criminal activities, members of neighborhood watch contact appropriate police authorities but do not intervene. Neighborhood watch, is therefore a group of police informants that give the police relevant information that helps in their investigations, prosecutions and crime prevention (Aniche, 2018).

In Nigeria, ethnic militias or militant groups have been erroneously taken to be vigilante groups. Although, some ethnic militias are involved in vigilante service, they are not strictly speaking vigilante security apparatus in that they also engage in other activities which are not necessarily or primarily vigilante service. This implies that vigilante activities are not the primary objectives or roles of the ethnic militant groups like Odua People's Congress (OPC), Movement for Actualization of Sovereign State of Biafra (MASSOB), IPOB. These radical ethnic organizations only assume or usurp the responsibilities of vigilante security, but are purely militant groups which in most cases engage in insurgency and other rebellious activities.

The security of the society is the functions of both the state and the citizenry. The police cannot handle security matters alone, it requires the cooperation and partnership of the citizens. Security engenders development and without security, there is no development. Security does not only facilitate development, it is one of the features of development, it is regrettable that the community policing practiced before now in Nigeria has not ensured security and safety in the country let alone facilitate development. Rather than policing the community, the Nigeria police has been busy alienating the people. Thus, insecurity and crimes have scared investors away from Nigeria, crippled economic activities and hindered development in the country.

IV. Specific Instances of Nigeria Police Laxity

Many factors are responsible for the call for state police and these include the followings:

> Boko Haram began when the leader, Mallam Muhammed Yusuf illegally started gathering and indoctrinating borno youths. Under a state police system or decentralized police system all the security apparatus would have been ignited to effectively control his religious rascality that eventually developed or snowballed into insurgency in the North Eastern state of Borno. The state governor was depending on the federal police that was not available for him. Today thousands of innocent lives and property worth billions of naira have been destroyed. Such operational laxity abound across the country. (Okezie, 2021) under the centralized police system.

Endsars agitation was another evidence of the federal security laxity. When the agitation was building up in Lagos state, state police structure would have swung into action immediately and quelled the protest, but rather, the state governor helplessly tried to establish official contact with the federal police without success. Under a state police, the Endsars protests which became bloody would have been averted. State

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police is an important prerequisite of true federalism. The lack of it heightens insecurity in Nigeria.

Police Brutality and Impunity: cases of police brutality and impunity abound nationwide in Nigeria. For instance, a high court judge was manhandled in public glare by political thugs while the police watched helplessly in September 2014 in Ekiti state and in November of same year, 7 out of 26 members of the Ekiti House of Assembly impeached the speaker under the watch of the police. If there were state police which personnel were mainly indigenes and familiar with the political terrain, this would not have happened.

With abduction, especially of school children in Chibok, Dapchi, in 2014, lawlessness and bloodletting across the country, Centralized policing has reduced parts of the country to lawless zones and continue to take a heavy toll on lives and property, scaring away potential foreign and local investors. Such states as Zamfara, Plateau, Taraba, Benue and Kuduna and many others, are today in the hands of Fulani Militants, Kidnappers, armed robbers and cattle rustlers carrying out horrifying killings; the killing of 20 people in communal clashes between the Ukele of Cross Rivers State and the Izzi people of Ebonyi State in 2019, the massacre of 200 people in Bakin Ladin of Plateaus State in June 2018, the murder of 7 policemen in Gwagwadala by unknown gunmen have also been confirmed that under the present centralized policing, the country is no longer safe (Nation 2018). Amnesty International have even revealed that between January and June, 2018, 378 persons were killed in Benue state, and 340 in Plateau state, and 217 persons were also killed in Zamfara State.(Amnesty International, 2018).

Frustrated by the security situation in all states of the country, state governors resorted to setting up vigilante groups in their respective state and regional security outfits as parts of their efforts in tackling insecurity. In 2020 the South West Region established a regional security outfit code named Amotekun, to complement the efforts of the security agencies in fighting crime in the zone. A few weeks later, the South East governors announced the setting up of their own regional security outfit code name Ebubeagu in response to the rising crime wave in the region. Unfortunately, state and community vigilante groups have brought little or no succor to the people. The regional outfits would help address insecurity in the country, but for the constitutional hurdle they have to surmount to enable them be fully equipped with the necessary arms and ammunition.

V. Challenges and Prospects of the Proposed State Police

The proposition of state police creation has generated much concerns and apprehensions, one of which is the fear of the political class hijacking it. This is real because there were occasions in which the leadership of the present federal police has been politically compromised and in all states where governors have supervised the conduct of local government elections in the last 10 years and more, all the council elections have been won by the ruling party in the state. This is because the state Independent Electoral Commission in each state is appointed and funded by the state governors. Also the demolition of the state headquarters of a faction of the All Progressive Party (APP) in Kaduna, allegedly on the orders of the state government is demonstrative of intolerance of opposition in the state. There is also the fear that a number of state governor may personalize and misapply the police forces under their authorities for ulterior motives. The possibilities are real from our previous and current experiences.

One of the challenges of state police could be the inability of states to adequately fund the state police. Most of the states depend almost entirely on federal allocation for sustenance, and may find it difficult to maintain state police. A few times the country has witnessed police protest, on account of delayed or unpaid salaries and allowances. For instance the withdrawal of police services was witnessed in 2002 when a section of the Nigeria Police Force personnel came under the name, National Police Union and declared a one-day strike. A similar occurrence happened in Maiduguri, Borno State, by mobile police personnel over unpaid allowances for seven months. They barricaded major roads around the state police headquarters and fired gun shots in the air, thus intimidating and terrorizing the people. Again economic news magazine, 2018 in its Annual State Viability Index (ASVI) discovered that 17 states were insolvent, because "their internally generated revenues (IGR) in 2017 were far below 10 percent of their receipts from the Federation Account Allocations (FAA) in the same year."

But decentralized policing is inherent in federalism which provide for proper delimitation of jurisdiction and authority. Even countries like India and Pakistan that practice state and community policing do have some serious challenges. Since every crime is local, a centralized police system that is controlled from the centre lacks speed and intelligence to curb crisis in the state and bring security closer to the people.

One of the deep-rooted apprehensions the public holds against the current policing dispensation is the police brutality fueled by its name tag – police force. The proposed state police should therefore, not be made to carry the sobriquet of force which is not done in other federal states.

Notwithstanding growing positive public sentiments, unbundling the Federal police will not be possible, unless the Constitution is amended. Sections 214 and 215, for instance, place the police under the exclusive control of the Federal Government. 214(1):

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provides for instance that there shall be a police force for Nigeria, which shall known as the Nigeria police force, and subject to the provisions of this section no other police force shall be established for the Federation of any part thereof. This makes it impossible to create state police apparatus.

Federal Police Service Commission could however exercise a level of oversight over the activities of the state police, such as maintaining common facilities for all police services in the country, including training, criminal intelligence data bases, forensic laboratories and rendering assistance to the state police services in specialized areas like behaviourial analysis, counter terrorism, and a system of inspectorates and certification, such as supervision of standards and annual certification of every state police service. There is the fear of abuse.

The governors as state chief security officers have no powers over appointment of state commissioners of police. This makes it extremely difficult for the governors directives to the commissioners on security issues to be carried out without clearance from the Inspector General of Police.

VI. Summary, Conclusion and Recommendations

a) Summary and Conclusion

The recent upsurge of public interest in state police reflects to a large extent, the frustration of the citizenry who are no longer safe even in their homes. Consequently the study recommends as follows:-

Policing in Nigeria is different from what obtains in other federations globally. In the US, the police is decentralized and instituted along the various federal, state and country authorities. In Britain, there are over 20 police jurisdictions, same for France, Canada, Germany and many others. Inferably the police, as the first line of defence for the ordinary citizens should be as close to the people as possible. When the authority is far removed from the people, it tends to limit the effectiveness of such a police force as we have continually experienced in Nigeria. It was in recognition of this fact that the Nigeria police sometimes endorsed the need to rijig the over-centralized structure of the police as currently constituted by advocating for community policing which implies that while the present central authority is retained, the police could be made to be more responsive and effective by recognizing local necessities in the deployment of men and officers. This latter proposal could not achieve the desired result. Though not much at variance with state police, community policing seeks to bring the internal security matters closer to and involve the ordinary people in their own security but places the power to issue directives and instructions to the police on the Inspector General of police in Abuja while the Governors even as state chief security officers have little or no power to compel commissioners to take immediate action during emergencies. The call for establishment of state police is therefore a response to the need for timely intervention during emergencies in the state, as state commissioners of police would carry out directives of the governors without waiting for Abuja.

b) Recommendation

(a) *Powers of the state governors*

– State governors should be chief security officer of their respective state both in name and in deed but their powers should be limited to making policies, not operational use and control and power to appoint state commissioner of state police.

(b) *Cutting cost of governance and wastages*

– Cutting cost of governance and wastages in the system could save sufficient funds and resources to fund state police The funding of the state police should be a first line charge deducted at source from the Federation Account and paid directly to the State Police Service Commission.

(c) *Police Trust Fund*

– State House of Assembly should establish Police Trust Fund for funding the police including police welfare and the present level of allocation to the state from Federation Account should be substantially increase to meet state commitments, including state police.

(d) *Police Service Commission*

– The current Federal Police Service Commission should be overhauled. The National Assembly should amend the constitution to provide for independent State Police Service Councils for each of the states of the federation. the councils should be concerned with both the policies and welfare of the police personnel.

(e) *Amendment of the Constitution*

– The national assembly should amend the constitution to make provision for the type of arms and amonition the state police establishment should acquire, delete the phrase and subject to provision of this section, no other police force shall be established for the federation or any part thereof, it should also delete the word force from the Nigeria Police Force. Similarly amendment to sections 215 and 216 of the 1999 constitution should clearly define the structure of both state and national police and the crimes and offending behaviours they are to deal with.

(f) Crest, Flag and Uniform

– The current crest and flag of the federal police should be sustained, while the state police agency should have separate crests supper-imposed on

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their preferred colours. The uniform that each state police should be adorned with should have no striking differences between the national and state police agencies. Whether national or state police, personnel uniforms should be same with a caveat.

(g) *Recruitment*

– State police should recruit mainly indigenes who are conversant with the terrain, local culture, language, and sensitivities of the people they seek to protect. The police at the national and state levels should make professionalism rooted in civility and integrity their guiding principle. Police personnel in the real sense should be emotionally intelligent and stable to undertake serious policing duties.

(h) *Nucleus of State Police:* The present regional security outfits where they exist as in the south, (Amatekun, Ebubeagu), should form the nucleus of the envisaged state police or personnel of such outfit should be integrated into state police operation in the states they come from.

(i) *State House of Assembly*

– The state House of Assembly should be constitutionally empower to establish state police force which should accord with the provision an Act of the National Assembly.

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Political Processes in Uzbekistan in the Context of the Problems of Political Tolerance

By Ernazarov Dilmurod Zukhriddinovich
Tashkent State University of Economics

Abstract- Today, the political and philosophical category of “tolerance” is becoming more and more in demand in all areas of the socio-political life of Uzbekistan. The motive and term of tolerance organize discussions around themselves in the media, statements by human rights defenders, thoughts of educators, and calculations of social workers. However, against the backdrop of an increase in cultural and educational programs in the country to “introduce attitudes of tolerant consciousness”, the covert activities of terrorist and extremist organizations are intensifying.

Keywords: political tolerance, political process, phenomenon, INGOs, democracy, law, political party, ideology.

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Political Processes in Uzbekistan in the Context of the Problems of Political Tolerance

Ernazarov Dilmurod Zukhriddinovich

Abstract- **Today, the political and philosophical category of "tolerance" is becoming more and more in demand in all areas of the socio-political life of Uzbekistan. The motive and term of tolerance organize discussions around themselves in the media, statements by human rights defenders, thoughts of educators, and calculations of social workers. However, against the backdrop of an increase in cultural and educational programs in the country to "introduce attitudes of tolerant consciousness", the covert activities of terrorist and extremist organizations are intensifying.**

Keywords: political tolerance, political process, phenomenon, INGOs, democracy, law, political party, ideology.

I. Introduction

The problem of tolerance in the modern political process is of particular importance for understanding the development prospects of any statehood. Tolerance is a complex and multifaceted phenomenon that includes various aspects of social life: ethnic, intercultural, religious, political, social. In countries where democracy has existed for several centuries, the issue of political tolerance is one of the most important contentious issues. The level of tolerance in Uzbekistan is an indicator of the democratization of the country. Of particular importance is the issue of political tolerance in societies that are in a state of transition to a democratic form of organization. From our point of view, for democratic Uzbekistan this issue is relevant.

The role and significance of political tolerance is in the political process stems from essence. It is the orientation, the level of people's attitude to different political views and opinions of each other, the activities of political leaders, as well as state relations between INGOs. All this largely determines political stability. The level of political tolerance of an individual characterizes him in many ways, determines his relations with other people. In many sociological and political science theories, the level and degree of tolerance of society is considered as one of the leading, sometimes the main criteria for spiritual, moral, social, political and state development of society.

At present, the problem of the formation of political tolerance in Uzbekistan is being studied at the intersection of the humanities and social sciences. This is due to the stratification of world civilization by economic, social, moral and ethical, other characteristics and the associated increase in intolerance, religious extremism; aggravation of interethnic relations caused by local wars, refugee problems, change of moral paradigms, etc.

In Uzbekistan, the issue of political tolerance is of particular importance. Political processes affect the interests of people, and they are different, therefore, the attitude and perception of political processes cannot be unambiguous. In addition, at the present stage of development of Uzbekistan, the government and state bodies need a friendly and tolerant attitude towards INGOs.

With independence, Uzbekistan entered a new historical stage of development, characterized by deep transformations in all areas of public life against the backdrop of a rise in national and religious self-awareness. The desire of Kazakhstan to ensure the peaceful neighborhood of representatives of various nationalities and faiths, to maintain stability in society is reflected in the flexible policy of the state, the main dominant of which is the culture of tolerance.

In 2017, the President of Uzbekistan, by his decree of February 7, approved the "Strategy of action in five priority areas of the country's development in 2017-2021." The fifth direction of the strategy is ensuring security, interethnic harmony and religious tolerance, implementing a balanced, mutually beneficial and constructive foreign policy aimed at strengthening the independence and sovereignty of the state, creating a belt of security, stability and good neighborliness around Uzbekistan, strengthening the country's international image. (Collection of legislation of the Republic of Uzbekistan. 2017)

The decree of the President of the Republic of Uzbekistan Sh. Mirziyoyev "On measures to further improve interethnic relations and friendly relations with foreign countries" is aimed at further ensuring stability, peace and harmony in society, strengthening the feeling of belonging to a large, united multinational family in the minds of citizens, comprehensive support and further development of the activities of national cultural centers and friendship societies, expansion of cultural and educational ties with foreign countries (Decree of the President of the Republic of Uzbekistan. 2017)

Today, despite the fact that the implementation of the principles of political tolerance faces some

Author: Doctor of Political Science (PhD), Department of Social Sciences and Humanities, Tashkent State University of Economics (TSEU), Uzbekistan. e-mail: dilm79@inbox.ru

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difficulties, the problem of political tolerance remains relevant.

The constitutional consolidation of a multi-party system and the basic principles of the activities of political parties in relevant laws is the starting point for further work on understanding the real mechanisms of interaction between various political forces and the ways of forming an appropriate political culture. Tolerance, as a principle of political activity, is becoming the main condition for the positive implementation of the plans for the national revival of Uzbekistan. Undoubtedly, at present, the solution of these problems determines the relevance of the study of the role of tolerance in the political process in the regional aspect.

II. Analysis of Scientific Literature

The study of the problems of political tolerance is an object of interest in various interdisciplinary sciences. The concept of tolerance is ambiguous and quite complex, multidimensional concept, in relation to which there is no certain clarity among researchers.

Along with classical researchers like J. Locke, Peter P. Nicholson, M. Walzer, J. Habermas, we studied dissertations by Russian researchers as 1) Guliev M.A. Political tolerance in the settlement of ethnic conflicts. The text of the dissertation is a candidate of political sciences. Rostov-on-Don, 2003; Ilyinskaya S.G. Tolerance as a category of political theory. The text of the dissertation is a candidate of political sciences. M., 2006; 2) Markova E. A. Tolerance in the political process: regional aspect. The text of the dissertation is a candidate of political sciences. Chita, 2007; 3). Olinichenko G.G. Tolerance as a factor in the global political process. The text of the dissertation is a candidate of political sciences. M., 2004; Rodionova E.V. Social factors of political tolerance in modern Russian society. The text of the dissertation is a candidate of sociological sciences. St. Petersburg, 2003.

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III. Research Methods

In studying the problem, we used the following methods: a comprehensive analysis of primary and secondary sources, existing views on the problem, the historical method, methods of comparisons, analogies and generalizations, structural and functional analysis empirical (observation, description). The ideas and conclusions of famous classical and modern scholars dedicated to understanding the problem of political tolerance were used.

IV. Relations between Uzbekistan and INGOs in the Context of Political Tolerance

In a number of studies, the current system of international relations is characterized by such concepts as: "the apolar world" (Ferguson 2004) 2, "globalization without coasts" (Cheshkov 2005) 3, "revolution of associations" (Salamon 1997) However, attempts to make an objective assessment show that the truth lies between the aforementioned polar points of view and does not consist in the replacement of the national state by non-state actors in world politics or, on the contrary, in the complete domination of the latter, but in the emergence, along with traditional formats, of interstate interaction carried out by national states, new non-governmental formats of interaction implemented through INGOs.

However, one of the key events in the political history of the late XX - early XXI centuries was the active entry into the world arena of the so-called international non-governmental organizations. Today, international non-governmental organizations operate in the field of humanitarian law and the protection of human rights, ecology, economics, science, journalism, sports, politics and religion, etc.

In our opinion, their importance should be evaluated, first of all, in the context of the changed models of interaction between states in the context of globalization and the situation of bifurcation of world politics. INGOs seek to gain direct or indirect access to political power through work with the authorities of national states or groups. At the same time, states, in an effort to improve their foreign policy tools in accordance with the challenges of modern world politics, often perceive INGOs as a means or tool to implement their foreign policy tasks. They reveal the potential of consolidation of the society on the basis of confessional community and allowing you to formally distance yourself from specific actions abroad.

For Uzbekistan, INGOs are a socio-political institution. In addition, in recent years, they are increasingly involved in world politics. INGOs have a dual nature and carry out international activities as in the form of subjects of modern world politics. They also have their own interests and the ability to influence decision-making at the international level. INGOs as a network structure are able to function as a tool for lobbying the interests of states. Network structures of

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INGOs are actively used by states as a tool to achieve their own foreign policy goals.

The interaction of Uzbekistan with INGOs is carried out in two main forms: subjective and instrumental. Uzbekistan interacts with INGOs as independent entities of modern world politics. As an instrumental, Uzbekistan uses INGOs as an instrument of soft power in order to implement its foreign policy.

Thus, the limits of the influence of INGOs as an instrument of the foreign policy of a number of countries directly depend on a number of factors:

1) The availability and adequacy of the socio-political situation of laws governing the functioning of INGOs;
2) The presence of a body for relations with INGOs under executive or legislative structures of power;
3) Forms of taxation of INGOs;
4) Forms of direct or indirect financing of organizations or programs supporting the activities of INGOs;
5) Practices of checking transparency of financing of INGOs, etc.

In our opinion, INGOs have many advantages over the classical instruments of state foreign policy. They ensure the effective implementation of the foreign policy of a particular country in the context of globalization and turbulence in the global political process:

First, INGOs formally independently operating in the territory of the state of presence are a source of valuable information about the social, economic and political situation in it, almost never risking being caught in carrying out an "order" of a foreign state.

Secondly, with active support through INGOs, a determining influence on the social and political space of the state of presence and its integral processes can be hidden and indirectly.

Thirdly, INGOs can transparently carry out the formation in society of stable ideas about the ideological, political, cultural, confessional worldviews of a single state.

At present, when the international situation is devoid of excessive ideologization, confrontation in international relations is giving way to cooperation for INGOs and opportunities for ever wider and more fruitful cooperation are opening up.

Over time, the growing influence of INGOs on domestic politics has led to increased government interest in using them to address many of the political challenges associated with competition in the international arena.

In our opinion, the government of Uzbekistan is committed to the following goals:

First, to establish the forms and channels of influence of INGOs on international relations;

Secondly, to control the process of formation of local NGOs as INGOs as a subject of world politics in order to further use their potential for their own purposes.

Foreign experience of using INGOs as instruments of foreign policy suggests that there is another tendency, INGOs to actively participate in protest movements during the implementation of the "color revolutions". Uzbekistan always takes this trend into account in relation to INGOs. In addition, Uzbekistan does not allow religious-oriented INGOs. National laws of the country do not allow their activities.

"In the Republic of Uzbekistan, the creation and activity of a political party and social movement on a religious basis, as well as branches and divisions of religious parties established outside the republic, are not allowed." (Law of the Republic of Uzbekistan. 1998)

As for the spread of Protestant INGOs in Russia, the views of Russian scientists on this problem are directly opposite. So, O.O. Tikhonenko suggests that Protestantism spread in Russia performs the function of broadcasting Western European cultural innovations that can accelerate the development of the country. (Tikhonenko. 2012)

In addition, we do not exclude the version that sometimes INGOs can negatively affect the course of development of civil society in the country. In this regard, we believe that it is necessary to maintain a distance with them.

As A.O. notes Naumov, "MNPOs, along with official activities, form among the politically active population of the country, primarily young people, ideas about the "right" way to build a civil society and realize democratic freedoms, in which the USA and Western European states serve as a model. They use technologies aimed at introducing relevant stereotypes into the public consciousness and transforming the traditional foundations of national identity. They play the role of a hidden tool for promoting the policies of Western governments in the international arena and will intervene in the internal affairs of sovereign states". (Naumov. 2013)

The further development of democratic political processes urgently requires the fullest implementation of the principle of tolerance in political life. At the same time, the priority direction of its implementation is the development of comprehensive cooperation on issues of solving the problems of development of society, which are an integral part of political culture.

In our opinion, the following factors influence the increase of political tolerance of citizens of Uzbekistan:

free activity of the MPNO in the country;
constructive cooperation of state bodies with INGOs;
implementation of joint social projects;
media coverage of the activities of INGOs and citizen awareness of their projects;
active participation in the activities of local NGOs;

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participation of citizens and youth in various social grants of international organizations;

We believe that in recent years INGOs in Uzbekistan have played a large role in the socio-political sphere. For example, they:

- Raise issues that are not affected by government activities;
- Collect, process and disseminate information on international issues requiring public attention;
- Initiate specific approaches to solving such problems and encourage governments to conclude relevant agreements;
- Lobbying governments and international structures to make the necessary decisions;
- Monitor the activities of governments and interstate structures in various spheres of international life and the fulfillment by governments and intergovernmental organizations of their obligations;
- Mobilize public opinion and contribute to the emergence of a sense of involvement of the "common man" in major international problems.

V. Political Tolerance as an Ideology

At present, when a society is undergoing profound systemic changes, values are changing, a new mentality is being formed, the concept of "tolerance" causes many different reactions - from surprise to aggression. This is primarily due to the fact that it carries a different, unusual, ideology, at the same time extremely complex, because it is an ideology of development and support of the individual.

Political tolerance - tolerance associated with the functioning of the subjects of the political sphere of society, as carriers of political ideologies, political values and political action. This is, first of all, the position of various political subjects, which is expressed in a tolerant attitude towards political opponents regarding their opinions, ideas, activities, etc., based on mutual respect of the parties.

The idea of tolerance may seem simple, but its adequate definition arises when its specific content is taken into account, depending on the context - ideological, religious or otherwise. Unfortunately, the mentality of the people of Uzbekistan, due to historical conditions, is permeated with the spirit of totalitarianism, and the political context of tolerance is nevertheless liberalism as an opposition to totalitarian and nationalist systems.

The culture of tolerance manifests itself in the form of dialogue, in relation to politics - in the form of political dialogue, helps to see in a person not only a representative of a particular nationality, profession or religious denomination, but, above all, a person. Tolerant behavior is not only a political or scientific choice, it is primarily a moral and ethical choice.

Political tolerance as "the willingness of the authorities to allow dissent in society and even within their ranks, to allow opposition activities within the framework of the constitution, the ability to adequately admit defeat in the political struggle, to accept political pluralism as a manifestation of diversity in the state" (Asmolov. 2001)

Russian political scientist Ye. B. Shestopal considers political tolerance as "tolerance of political opponents and political opposition in general". (Eliseev. 2010) However, under such an interpretation, subordinate structures drop out of sight, which can also interact with political institutions and individuals in whose hands power is concentrated, including at the level of formal interpersonal relations.

VI. Discussion

We can consider the phenomenon of tolerance both as a category and as a political strategy from various positions: as an ethical and philosophical concept; as a principle of the relationship between the followers of various ideological concepts, beliefs and beliefs; as a method of making political decisions and actions; as a social ideal, etc.

For example, V.P. Makarenko believes that the problem of tolerance appears in two main senses - as indifference of individuals to each other and at the same time as an interested understanding. (Makarenko. 1998) According to V.V.Shalin, "tolerance is expressed in the human desire to achieve mutual understanding and coordination of the most diverse motives, attitudes, orientations, without resorting to violence, suppressing human dignity, and using humanitarian opportunities - dialogue, clarification, and cooperation." He believes that in this concept, people express their attitude to actions that favor social contacts and help to achieve a variety of goals that are significant for them. (Shalin. 2000)

The study of the phenomenon of political tolerance in the perspective of the value orientation of human existence allows us to understand tolerance as one of the most important axiological forms that organize joint human life. Therefore, the consideration of tolerance in the political science aspect in the field of dialogue communication between the state and civil society in modern Uzbekistan is relevant.

If democratic processes are associated with the growing role of civil society and the formation of a civilized opposition, this distance will naturally decrease and the chances of a tolerant policy may increase. (Sinelnikova. 2010)

Political tolerance in modern Uzbekistan is developing with the most important attribute of the political culture of a democratic society, which includes both the state and civil society. This kind of tolerant behavior manifests itself in an equal and symmetric

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public dialogue, the participants of which, on the one hand, are government bodies, institutions and institutions, and on the other, NGOs, public, voluntary organizations, political parties, trade unions, mosques, the church and others civil society institutions.

Political tolerance is defined as the willingness to disseminate basic constitutional rights - the right to speak, publish, run for election. (Political Science, Spring. 2003)

The current level of development of Uzbekistan involves a transition from political processes to ensuring the security of the Uzbek society and the stability of the political process based on tolerance. Political tolerance is the most promising way to transition to long-term security and stability of society.

Today, political tolerance acts as the most important moral and political principle of the vigorous activity of political actors. It can be defined as a set of fundamental provisions that determine the nature of the requirements for the activities of political actors in the formation of relations between political parties, movements, social and other groups of people, the observance of which helps to prevent violent conflicts and ensure peace and security.

Formed in the main features within the framework of Western liberalism, the principle of political tolerance cannot be a universal principle for all political actors without taking into account the conditions and specifics of the region in which they operate.

The modern researcher A. Solovyov claims: “The institutionalization of the political process in any country structures the process of political changes, sets the pace and nature of transformations of power, relations between elite and non-elite layers”. (Titova. 2013).

Political tolerance is defined as the virtue of refraining from using force to interfere with the opinions or actions of another. Even it deviates from the opinion or action of the subject of tolerance. (Walzer. 2000) Many theorists have recognized that there is no single democratic theory. There are a large number of versions of theories of democracy, as well as the importance and role of political tolerance for different theorists. In this analysis, the author identifies three differences in the understanding of democratic theory, without analyzing them in detail in a historical context:

1. Liberal-democratic theory and political tolerance;
2. Conservative-democratic theory and political tolerance;
3. Federalist democracy "or" constitutional democratic theory and political tolerance.

In our opinion, a conservative-democratic theory and political tolerance are developing in Uzbekistan at the moment. We do not fully accept all the norms and political, democratic values for our own development.

Modern scholars distinguish various types and types of democracy - collectivist, majority, civil, elitist, pluralistic, consensus, etc. Meanwhile, political tolerance in Uzbekistan was characterized in terms of the presence of the necessary conditions for the expression of political rights, civil liberties, and freedom of the media, which made it possible to put forward a hypothesis that there is a sociocultural crisis, which is still a substantial component that determines the evolution of political values.

Meanwhile, these types are a creation, rather a scientific and academic discourse; none of them in real political life can claim exclusiveness and universality. (Bernard. 1973). In the conditions of Uzbekistan, tolerance should be considered as a special social norm of a civil liberal society, which includes the following components:

- Social susceptibility of interacting actors;
- Respect and recognition of equality of partners;
- Rejection of dominance and violence;
- Recognition of the diversity of human culture;
- Refusal to reduce this diversity to uniformity;
- Willingness to accept another, as he is;
- Willingness to interact on the basis of consent, but without prejudice to their own interests;

Social science educators are responsible for developing an enlightened population. Enlightened citizens do more than just “spur the rhythm of democracy.” Enlightened citizens understand the role of tolerance in a democratic society and are committed to tolerance and respect for minority rights. (Thalhammer, Wood, Bird, Avery & Sullivan 1994). The study shows that adolescents can become enlightened citizens, but to achieve this goal will require great efforts and the constant desire of teachers of social sciences.

Tolerance in modern societies is the most important characteristic of a consciously formed model of the relationship of social subjects of individuals, peoples, states, a model built on the principles fixed in the above aspects of the meaning of this concept. Today, the potential of political pluralism in establishing a tolerant climate in Uzbek society is expressed in the fact that thanks to it, various political segments of society unite around the common goal of strengthening the foundations of the political order in order to solve the problems facing the state, for the sake of stable development.

VII. Conclusion

The formation and development of democracy in Uzbekistan is associated with the problem of the degree of maturity and development of its spiritual and socio-economic premises. The economic pluralism that has formed in our country has led to pluralism, the political principle of the organization of power. Power requires its dispersal between different autonomous and

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competing social groups. Political pluralism is embodied in the coexistence of many centers of power, sources of information and free access to opinions in society.

In such conditions, the issue of political tolerance as the key to the stability of political relations between various subjects of political life, as well as in relation to INGOs, comes to the fore. Tolerance in its historical development has come a long way from tolerance to tolerance in the broad sense of the word. It covers almost all spheres of society: religion, family, psychology, law, politics, etc.

Tolerance implies, first of all, the freedom of all its subjects, which consists in the right to adhere to a certain opinion or idea without prejudice to other subjects.

Thus, in Uzbekistan, political tolerance is formed in the relations between differing political views of individuals, social movements, organizations, parties, information structures, states, international organizations, etc.

The political tolerance of Uzbekistan towards INGOs is an opportunity for stable and sustainable coexistence of various political views and directions, which influences the process of democratization of the country and the formation of civil society. This leads to an increase in the level of political culture of the population. One can trace the proportional dependence of the level of political tolerance on the level of political culture. The higher the political culture of citizens of the republic rises, the higher the level of political tolerance in society.

Political tolerance is influenced by various factors, among which one can single out the level of culture in general and the level of political culture of the population, interethnic and ethno-political relations, and migration processes.

Thus, modern international relations are characterized by an increasingly obvious increase in the number of INGOs. Although relations between states continue today to be the main form of communication between peoples, they, however, do not cover the whole variety of relations of public life. The role of INGOs in assisting states and international intergovernmental organizations in solving numerous political, economic, humanitarian, cultural and other problems is growing.

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The Dimensions of Poverty and its Effects on Nigeria's National Development

By Abdulrahman Adamu & Umoru Adejo Yakubu
Federal University Gusau

Abstract- This paper examines the dimensions of poverty and how it affects national development in Nigeria. It therefore, views poverty as a phenomenon that affects the socio-economic and political conditions of its victims in both developed, developing and underdeveloped countries. Relying on qualitative data, this paper used the political economy approach to argue that the underdevelopment of the productive forces occasioned by politics of primitiveness orchestrated by the political class is largely the cause of the poverty in Nigeria. It is against this analytical angle that the paper reveals that poverty in Nigeria has resulted to inequality, social injustice, conflict, crime and consequently leading to political apathy and sometime vote buying during elections. With these dimensions, it concludes that the nature and character of poverty in the country pose challenges to Nigeria's national development. Because sustainable national development cannot be achieved in a poverty ridden nation hence, the menaces of poverty are recipes for anti-nation building culture.

Keywords: *poverty, national development, dimensions, effects, challenges.*

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THEDIMENSIONSOFPOVERTYANDITSEFFECTSONNIGERIASNATIONALDEVELOPMENT

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The Dimensions of Poverty and its Effects on Nigeria's National Development

Abdulrahman Adamu [α] & Umoru Adejo Yakubu [σ]

Abstract- This paper examines the dimensions of poverty and how it affects national development in Nigeria. It therefore, views poverty as a phenomenon that affects the socio-economic and political conditions of its victims in both developed, developing and underdeveloped countries. Relying on qualitative data, this paper used the political economy approach to argue that the underdevelopment of the productive forces occasioned by politics of primitiveness orchestrated by the political class is largely the cause of the poverty in Nigeria. It is against this analytical angle that the paper reveals that poverty in Nigeria has resulted to inequality, social injustice, conflict, crime and consequently leading to political apathy and sometime vote buying during elections. With these dimensions, it concludes that the nature and character of poverty in the country pose challenges to Nigeria's national development. Because sustainable national development cannot be achieved in a poverty ridden nation hence, the menaces of poverty are recipes for anti-nation building culture. It recommends among others that the poor should be involved in the designing and implementation of policies that concern them due to the fact that they know better the challenges facing them in their various communities.

Keywords: poverty, national development, dimensions, effects, challenges.

I. Introduction

Poverty is a global phenomenon that affects the socio-economic and political conditions of its people be it in developed, developing and underdeveloped countries. Therefore, it is a dynamic process of socio economic, political or other deprivations which affect individual households or communities and usually results in lack of access to basic necessities of life. It affects many aspects of the human conditions, including the physical, moral and the psychological.

Worthy of note is that available statistics have shown that poverty in poor countries is absolute and majorly witnessed in the rural areas. In Nigeria for instance, the rural population that constitute about 73% of the country's population (Presidential Report, 1999) are backward and underdeveloped. According to Aderonmu cited in Yakubu & Jonathan, (2010), a visit to any rural settlement in Nigeria will reveal dirt and unmotorable roads, women and children walking barefooted and trekking long distance to get water and firewood, pupil studying under trees, a dilapidated and ill equipped health centers and scores of poverty driven problems. Suffice it to say that the category of people that suffers most and are confronted with many challenges and have no power to improve their situation because of ill-health, poor education and lack of access to many opportunities available to them are the rural dwellers. They are extremely poor in almost all aspects of life and cannot contribute positively towards meaningful development in spite of the fact that they constitute the majority in terms of population.

Thus, the above conceptualization of poverty suggests that it could be a recipe for depression, frustration, low consciousness, jingoism, conflict and crime among people. If poverty in Nigeria is actually a product of political primitiveness (Ochoga, 2012) then a country with low patriotism and lack of consciousness among citizens is likely to face poor national development frontiers. Therefore, the problematic analytical angle of this paper is predicated on the extent to which the dimensions of poverty in Nigeria as permeated by political primitivism impacted on Nigeria's national development. This is because it is uncertain whether dimension of poverty affects national development.

II. Conceptualizing Poverty and National Development

a) Poverty

A universal definition of poverty is elusive, largely because it affects many aspects of human conception including physical, moral and psychological. Different criteria have therefore, been used to conceptualize poverty. Some analyses follow the conventional views of poverty as a result of insufficient income for securing basic goods and services. Others view poverty in part, as a function of education, health, life efficacy, child mortality lack of food etc. Lynch (1994); identify the poor, using the criteria of the levels of consumption and expenditure.

It became more prominent in 1975 when the Nigeria Economic Society Annual Conference focused on the subject matter. Much concern about poverty came into focus when the international oil price crashed in 1986 and there was an international slump with all these phenomenon mentioned above, poverty became severe between late 1980s and 90s which attracted a number of scho1ars who have written a lot of literature on the subject matter.

Author α: Department of Political Science, Federal University Gusau, Nigeria. e-mail: abduladamu6@gmail.com
Author σ: Department of Liberal Studies, Federal Polytechnic Kaura-Namoda-Nigeria.

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Balogun (1999) considered poverty in absolute terms as a situation where the population or section of the population is able to meet only its subsistence food, clothing and shelter in order to maintain minimum standard of living. Olowononi (1997) defined poverty as living in a substandard environment characterized by slump, squalor, and grossly inadequate social amenities such as medical facilities, school and recreational facilities. He further added that it implies low calories intakes, poor housing conditions, and inadequate health facilities, poor quality of educational facilities, low life expectancy, unemployment and underdevelopment. Onimode (1995) went further to identify poverty with people's inability to influence their environment which manifests itself in form of little or no education and inadequate access to land.

According to the World Bank (1999), poverty is hunger; lack of shelter; being sick and being unable to go to school; not knowing how to read; not being able to speak properly; not having a job; fear for the future; losing a child to illness brought about by unclean water; powerlessness, lack of representation and freedom.

Aku, Ibrahim and Bulus (1997) analyzed poverty from five dimensions of deprivation:

i). Personal and physical deprivation experienced as a result of health, literacy, nutritional and educational disability and lack of self-confidence.
ii). Economic deprivation drawn from lack of access to property income, asserts, factors of production and finance.
iii). Cultural deprivation in terms of lack of access to values, beliefs, knowledge, information and attitudes which deprives the people of control of their own destinies, and
iv). Political deprivation in terms of lack of political voice to participate in decision making affects their lives.

From the Marxist perspective, Ochoga (2012:17) conceptualize poverty as a 'situation where individuals are unable to afford calorie-intake, standard accommodation, quality education, health care services, and other basic needs as a result of lack of substantive income arising from the underdevelopment of the productive forces'. However, the conceptualization of poverty in this paper is defined as the inability to provide or secure basic needs such as food, shelter, clothing etc. This inability might be due to lack of development of content ability or mismanagement which in turn affects national development. What then is national development?

b) National Development

The definition of development is complex. Sometimes, scholars end up describing instead of defining the term development. Development can be defined as "collective activities by any human society directed at reducing the totality of perceived obstacles to a higher standard of living; thus maximizing the quality of lives of its citizen" (Sen cited in Ahmed 2013:87). Development is objectively to give the people a comfortable and better life. According to (Ahmed, 2013:87), Development is conceptualized as a gradual advance or growth through progressive change. He asserts further that, it is a gradual differentiation of an ecological community. The term is also used to describe the process of economic and social transformation within a country. Development entails a progressive prosperity, and progressive changes in political, social and economic life of a country for the better life of all.

For Rodney, development is a many sided process. He asserts that;

> *Development in human society is many sided process. At the level of individual, it implies increased skill and capacity, self-discipline and responsibility and material well-being... while at the level of social group therefore, development implies an increased capacity to regulate both internal and external relationship (Rodney, 1973:1)*

If the above postulation by Rodney is anything to go by, it can then be argued that increased skills and capacity, self-discipline and responsibility and material well-being are indicators for development at the individual level. While at the social group level, increasing capacity to control internal and external relationship is development. In order words, with the notion of increase, advance, progress and growth from above conceptualization of development, development is not and should not be limited to time, periods or context. For example, what might have been considered as development in the 1980s might not be development in the 21st century, because what was considered as development over two or three decades ago might be seen as traditional, not modern, outdated or incompatible with the contemporary situation, events or phenomena, what citizens of a particular country anticipate is continuous progressive changes. As time changes the ideology, perspective, tools and methods of development should also change to meet up with peoples' demands and needs because development is a continuous improvement in the quality life of the citizens, (Adamu, Haruna & Ibrahim 2017: 433-434).

In the opinion of (Adamu & Rasheed 2016:49), national development therefore, refers to the ability of a country or countries to improve the social welfare of the people, for example, by providing social amenities like quality education, infrastructure, medical care and social services. They asserted further that national development could also be seen as the ability of a government of a country to ensure justice, equity and equality, promote the application of rule of law and propagate the notion of fundamental human rights which are indicators or prospects to increased and enhanced living condition, income of the citizens, availability of opportunities of every kind to its citizens etc. This is because, without justice and equity, no nation can progress and become advanced. Therefore,

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national development is "Quality life for all" and quality life is attainable only where justice, equity and appropriate procedures are practiced which will further stimulate development in a country.

c) Theorizing the problematic

For the purpose of this study, Political Economy approach was adopted as a theoretical framework for the analysis. According to Hoogvelt (2001:3) 'political economy' was first coined by Montecretien de Watteville, a French writer, in 1615 (See also Onimode, 1985). De Watteville himself saw political economy as 'the science of wealth acquisition common to the state as well as the family. But de Watteville wrote in the mercantilist period when the economy was meant to serve the power needs of the augment revenue for the other states. Thus, accumulation was meant to augment revenue for the authorities to effectively prosecute wars against their enemies. The import of this is that national welfare was defined as national security if not national warfare.

In 1776, Adams Smith wrote his treatise: An Enquiry into the Nature and Causes of the Wealth of Nations. This treatise redefined political economy. By his analysis, wealth accumulation was no longer exclusively for the state and its authorities. National wealth was indeed the people's wealth. National wealth was in the first place, the product of individual labour. His main thesis was that the pursuit of individual self-interest would lead to public or collective good. So, men were supposed to freely express their economic potentials (the ability to produce materials and service) in order to optimally achieve that public good, through it was never the original goal of each individual producer. Yet it must be acknowledged that Smith focused mainly on political territorial acquisition or accumulation of wealth rather than on individual accumulation. The individual was only a source of labour for the wealth that was available for accumulation. If man exchanged, he did so only as for the benefits to him-so the invisible hand, the best, regulator of the economy. Man's natural propensity 'to truck, barter, and exchange' which alone sets the economy working is captured in the following argument by Smith:

> *But man has almost constant occasion for the help of his brethren and it is in vain for him to expect it from their benevolence only. He will be more likely to prevail if he can interest them it is self-love in his favour and show them what he requires of them. Whoever offers to another a bargain of the any kind, and you shall have this which you want, is the meaning of every such offer; and it is this manner that we obtain from one another the far greater part of those good offices which we in need of (Skinner,1970"117-8).*

But apparently, Smith was a true son of his age, the age of enlightenment when human liberty knew no bounds, at least intellectually. So, he idealistically envisaged an exchange system where the labourer produced mainly what he was at liberty to produce for what he subsistently and socially needed. He thus overlooked the social implications especially the contradictions resultant from the system of production and contribution that could possibly obstruct the 'invisible hands'.

If Adams Smith is reckoned to be the father of liberal economics which emphasizes the markets over and above the state whose role is only to ensure that the market is obstructed in its operation, he can equally be said to be a precursor of Marx also. He was the originator of surplus value, which he saw as what was left over of one's produce from labour after consuming what is needed to be consumed. Smith spotted the cradle of accumulation in this surplus; Marx traces the origin of capital to this surplus from product of labour.

The entry of Karl Marx into the debate has dramatically transformed the discourse of political economy. To Marx, the state is an economic system where the struggle for accumulation takes place between individuals and between groups. The groups, the class, are however more critical to the struggle. The individual is only important as a source of labour for production or for ownership of the means of production. Marx used the logic of dialectic to argue the thesis for historical materialism. Which holds that through the times history has been made of struggles and resolution of struggles between classes? However each resolution, while instituting a new order, ushers in contradiction inherent in that new order. Thus another struggle begins. The selection citation below provides so much regarding Marx's though on this matter:

> *In the social production of their lives, men enter into define relations that are in dispensation and independent of their will, relations of production which correspond to a definite stage of development of their material productive forces… At a certain stage of their development, the material productive forces of the society come in conflict with the existing relations of production… From the development of the productive forces these relations turn into their fetters, then begins an epoch of social revolution. With the change of the economic foundation the entire immense superstructure is the more or less rapidly transformed… In broad outline Asiatic, ancient, feudal, and modern bourgeois mode of production can be designated as progressive epochs in the economic formation of society. The bourgeois relations of production are the last antagonistic form of the social process of production (Marx, 1972:138).*

So, history has assumed a notion of its own which however shall terminate in the attainment of communism, an economic system where there shall no longer be the exploitation of man by man. Marx's major point of departure is that accumulation of wealth has never been and cannot be in public interest as suggested by Adam Smith. The exploitation of labour supplied by individual workers is never so free such as to achieve the public good. In the existent social relations of production, the labourer is not better than

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the slave, the serf or the bondman of yore. In other words, labour is made to produce for the good of the class in control- the dominant….but not for the toiling lot whose only possession is their labour, but for it is unpaid to ensure profit. He further submits:

> *….capita and the capitalist is merely personified and functions in the process of production solely as the agent of capital, in its corresponding social process of production, pumps a definite quantity of surplus-labour without an equivalent, and in essence it always remains forced labour- no matter how much it may seem to result from free contractual agreement. This surplus-labour appears as surplus-value, and this surplus value exists as a surplus-product (Marx, 1972:152).*

This is the origin of capital accumulation as envisaged by Marx. On the whole, Marx wrote the bourgeois class that has just overthrown the feudal system to establish the industrial society, and of the proletariat that was also a product of kind of society. To him, neither the state nor the market was capable of offering the public goods under capitalist economics, contrary to what Smith expected.

The analytical angle of the foregoing is that, it is in the nature of capitalism to operate in a zero-sum manner in its process of accumulation, which loses at the other end. It produces wealth for the one but peonage for the other. So as an economic system, from mercantilism to globalization, capitalism logically accounts for wealth and poverty from the opposite ends of accumulation. It can only be inferred. 'The parallel existence and mutual interaction of the state and market in the modern world create political economy'' (Gilpin, 1987:8). He has been able to see the link between 'exchange' and 'authority', 'power' and 'wealth', 'power' and 'money', etc. Though he does not talk of accumulation so directly, he has not missed the point concerning 'how the state and its associated political processes affect the production and distribution of wealth…'' (Gilpin, 1987: 9). To Spero (1977: 32), only liberalism has been responsible for separating politics from economics at mercantilism, but Ochoga (2012:345) counteract this notion by arguing that politics and economy have an inseparable link and as such, the nature and character of the interface could determine the rate of poverty and other indices of development in a state. Therefore, the foregoing conceptualization of the political economy approach serves as a guide in this paper to establish the dimensions of poverty in Nigeria and its effects on Nigeria's national development. What then are the causes of poverty in Nigeria?

d) Poverty in Nigeria and its Causes

As an overview, poverty is a worldwide phenomenon; it has been observed that Nigeria is one of the poorest countries in the world. The situation has reached an unpredictable level while shows that more than 49% of the population lives below the line, which 67% of the poor are extremely poor (Obi, 2011). The cause of poverty in Nigeria however is paradoxical as asserted by Odusola (1997:4) that Nigeria is a rich country inhibited by poor people-poverty in the midst of plenty. Odusola's statement is predicated on the fact that Nigeria is richly endowed in human, physical and natural resources, land, oil and gas, forest, a virile and versatile population. In spite of all these notwithstanding the incidence of poverty in the country is very high. The advent of oil in the economy in early l970s contributed immensely to the economic development plan and increase in government revenue.

The glut on the oil prices at the international oil market and the consequent drop in oil prices in the early 1980s marked the beginning of serious deterioration in welfare and an increase in absolute poverty in Nigeria with the oil boom fizzling out and government revenue levels dwindling, average per capita income fell, private consumption per capita as well as wages both agricultural and nonagricultural ventures in real terms fell; welfare, needless to say, was on a downward trend; life expectance at birth was 4% compared to the world average of 66% infant mortality was 96 per 1000 live birth, average calorie intake was far below what is recommended as minimum by Food and Agricultural Organization (CBN, 2018:7).

In 2005, there was a study by the CBN and World Bank on poverty assessment in Nigeria for poor rural householders. According to the report, the food intakes of the surveyed rural householders indicated an extreme poverty situation as high calorie food items such as "gari" dominated the householder's nutritional types. There is generally low and inadequate provision of basic infrastructures such as energy, portable water supply, housing and transportation in rural areas. Majority of the householders in the rural areas were living in low quality mud-bunch-housing types, made up of mud and corrugated iron roofing sheets. Generally, the mud-bacha houses lacked basic conveniences such as toilets and bathrooms, which such householders used pit/pail latrines, and bush/dung hills, majority of the householders trekked long distance because of non-availability of public transportation and lack of money to assist them, (CBN, 2018).

Olowononi (1997:9) argues that, hazards such as incidence of diarrhea and the malnourished children in urban and rural areas, the use of contaminated water and poor sanitary condition are associated with the increasingly high rates of diseases. Uniamikagbo (2013:7) sharing the same view with Olowononi, said in terms of safe water, those in the rural areas only have unsafe sources of water like streams, wells, ponds, etc. This has caused a lot of anxiety when considered that large proportion of Nigerians live in the rural areas. Nigeria's poverty situation on geographical basis could be in inequality emanating from unequal access to

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economic opportunities, increased sharing from 2000 to 2005. It is noted by the World Bank (2018:8) *that:*

> *21%, 40% of the populations were poor in the (1) southern, (2) middle belt and (3) northern states respectively. This could be as a result of differences in resource endowment. Experience has shown that the incidence of poverty could be found among the following groups in the urban areas in descending order as follows: Farmers 35%, apprentice and students 25%, junior wage earner like factory worker, clerks and messengers 22% and others 18%. Also, the degree of poverty has increased with the age of the heads of household. People whose age group falls between 56 and 68 years are mostly illiterate households. It was found that 68% of the poor households in rural areas had no formal education, while 42% of those households residing in urban arrears had no formal education.*

The degree of prostitution also increased among illiterates and unemployed women. Anyanwie (2009) and (Ochoga 2012:347) added that "poverty is either moderate or extreme", the order of ranking is north, south and middle agro-climatic zones. In summary therefore, this paper agrees with the late political economist Onimode (1995:34) that 'the statistics of rising poverty are flaring on the streets. This rising number of able-bodied beggars of all ages among males and females is simply deplorable. Scavenging for food in dustbins and at refuse dump is regular sighted in major towns and cities.' All these features are concrete evidence of the prevalence and severity of poverty in our society. With the current global rating, the poverty condition in the country is not better off (Global Poverty Index, 2019).

With the magnitude and spread of poverty and the desire to reduce its size and curb the spread, there is need to identify the causes of poverty. Identifying this will facilitate the process of poverty planning and management. Although, the basic causes of poverty can be easily explained, even with causal observation. However, specific theories have been adopted in the analysis of the causes of poverty. According to the United Nations (1995), and the World Bank (1990), poverty is manifested in various ways, including lack of sustainable livelihood, hunger and malnutrition, ill health, and basic needs. Yahiel (1993:9) reiterates that the causes of poverty include:

i). Structural causes that are more permanent and defendant on a host of exogenous factors such as limited resources, lack of skills, location disadvantage and other social and political factors.

ii). Transitional causes occasioned by structural adjustment reforms and changes in domestic economic policies that may result in price changes and unemployment. Natural calamities such as droughts and man-made disaster such as wars, environmental degradation and so on, also includes transitional poverty.

As observed by Obadan (1997:8), the main factors that cause poverty in Nigeria include: inadequate access to employment opportunities, inadequate access to means of supporting rural development in poor regions; poor access to markets where goods and services can be sold, low endowment of human capital and destruction of material resources leading to environmental degradation. On their parts, Afonja and Ogwumike (1995:32) observed that "several factors act and react upon one another to limit the upward mobility of individuals in the society and keep them perpetually in vicious cycle of abject poverty". The forces according to them can be categorized under two bread groupings, those that can be attributed to the low level and rate of economic growth and the distribution of the national income and those that arise from market imperfection in its entire ramification. The interaction of the above variables places a large segment of Nigeria in the vicious circle of poverty which is characterized by low productivity that leads to low per capita income. Low capita income result in low level of saving per head. The low level of saving leads to low level of capital accumulation per head which further leads to low productivity (Todaro, 1992). To Ochoga (2012:278) the disarticulation of the productive forces is responsible for poverty in Nigeria. He further contend that"

> *the causes of poverty in Nigeria is rooted in two analytical angle, first, the poverty has its root from the premature incorporation of the Nigerian economy into the global economy without having sustainable industrial base to withstand the contradictions of capitalism. Therefore, the government becomes the highest employer of labour as most industries have collapsed and as such unemployment is prevalent in the country. Secondly, since the productive forces are underdeveloped, many Nigerians (politicians) seen politics as a means to an end and as such allocation of authoritative resources are permeated by primitive accumulation, patrimonial consideration and primordial sentiment, these to a large extent contribute the causes of poverty in Nigeria.*

Ochoga's (2012) thesis of linking collapsed productive forces and political primitiveness is an analytic angle upon which this paper seeks to x-ray the dimensions of poverty and its effects on Nigeria's national development.

III. Dimensions of Poverty in Nigeria and its Effect on National Development

The preceding sections have established that the nature and character of poverty in Nigeria is a product of unproductive and anti-peoples interface between politics and economy in the country. Against is this backdrop, some dimensions of poverty have been identified by Adamu (2008) which include the following:

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a. *Poverty of material well-being:* This is conceived as lack of basic necessities for the sustenance of life. This comprises of food, clothing and shelter. In Nigeria and even in Africa, majority of people are living below the level of subsistence. The economic strangulation in the country has also made the material well-being of the majority of the people a very serious affair.

b. *Poverty of ideas:* This approach is divided into two levels, that of the leader and the subjects. For the leaders, there is always an avalanche of good ideas at the disposal of leaders. Most often than not, however, leaders tend to act in manners suggestive of their inability to assess what are good ideas. The result is that of different and uninspiring manner. Most of them have sailed the ship of state administration. On the part of the subjects, the poverty of ideas is exemplified here as lack of good judgment in supporting good policies and programmes that can lead to national development.

c. *Poverty of courage:* This dimension of poverty is typified by situation where there is a timid citizenry, very apprehensive and cautious in standing against lapses on the part of those in power or telling the government what it has done wrong. Rather, the citizenry down on to the leaders become sycophants with the attendant danger that the perception of leaders as to the acceptability of their policies and programmes become distorted, (Adamu, 2008:42-43).

It is worthy of note that of all the facets of poverty identified above, the poverty of material well-being ranked the most prominent, precious and almost all embarrassing. It is observed that in Nigeria, material poverty has greatly impeded the national development. It should be borne in mind that the perpetual struggle for existence has always been on how to conquer poverty. Consequently, such major concern of matters of mere survival, a party set into practice in a given country, the masses are usually and easily brain washed and left with the inability of choosing the right representatives, objective choice is seldom a consideration. More often than not, various forms of inducements and gratifications, which provide very temporal relief from the scourge of poverty, are given central attention in making their democratic choice. From the foregoing, each of the dimensions of poverty is capable of posing challenges to national development.

IV. Challenges of Poverty to Nigeria's National Development

There is no gainsaying the fact that poverty has impeded national development in many ways since Nigeria returned to civil rule in 1999 after many years of military rule. The above fact could be seen as a result of the implementation of Structural Adjustment programmes in the 1980s which gave a leverage to confirm the statement put forward by some scholars that poverty is as a result of lack of meaningful development.

It is fundamental to note that expectations that greeted Nigeria's recommencement of another lap of democratic governance in 1999 was very high but was dashed as the expectations placed on the new democratic regime to alleviate the extreme level of poverty in the country has remained an illusion with the continuous inability of successive governments to deliver dividends of democracy to the people. It is Interesting to note that the first noticeable sign of challenge that poverty posed to the Nigeria's democracy was the rise in crisis of legitimacy on the new government. Consequently, this created the room for the citizens not only to openly challenge the authority of the ruling elite and the viability of the Nigerian state, but also opened up the space for expression of suppressed ethnic demands bottled up by years of repressive military rule (Metumara, 2010:92).

It is worthy of note that when poverty is severe, it creates unwarranted socio-economic and political competition and the negative impact of this competition is insecurity associated with limited job opportunities and social services" (Metumara, 2010:96). It is on record that since Nigeria got her political independence in 1960, its economy has remained largely dualistic and monolithic, depending on one primary product for export (Ogunlela, and Ogungbile, 2006:2). This situation has in no small way halted the development of productive forces occasioned by economic wastage, mismanagement and lack of judicious use of available resources by the political elite. Due to the country's mono-culturalism and the predominant role of the state in development, the competitive advantage has reduced minimally when compared to other countries of the Western nations. The increasing rents and revenues of over $231 billion which accrued to the Nigerian state from 1970-1999 (Ross, 2003:2; Nna and Igwe, 2010:133) as well as the predominance of the state as the "main employer, provider and distributor of resources" (Akokpari, 2008:90) made the control of state power a highly lucrative enterprise. The above is responsible for the politics of kleptocracy and prebendalism which emanated from the struggle for the control of state's scarce resources. It is imperative to stress here that in the presence of all the identified issues and challenges artificially created by poverty are capable of hindering the attainment of national development in Nigeria.

It is not an exaggeration to conclude that the current spate of poverty in Nigeria has given prominence to inequality, social injustice and consequently resulted to political apathy. The rising profile of poverty in Nigeria as observed by the National Bureau of Statistics (2007:38) states that the number of

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people living in poverty increased from 39.07 million in 1992 to 70million in 2004. Similarly, the UNDP states that about 83.9 per cent of Nigerians live below two US Dollars a day (Nna & Igwe, 2010: 133). This poverty profile is further complicated by staggering and alarming levels of inequality as highlighted by (Oshewolo 2010:267) that 70.2 percent of the Nigerian population lives on less than $1 a day, while 90.8 percent lives on less than $2 a day. The total income earned by the richest 20 percent of the population is 55.7 percent, while the total income earned by the poorest 20 percent is 4.4 percent.

Another worrisome dimension of poverty situation in Nigeria in this republic is that of powerlessness which is characterized by dependence on others thereby having no voice and choice. In line with the above, Mattes, et al, (2003:35) asserts that the poor "are regularly victimized by public officials and encounter higher levels of crime. As a consequence, they are forced to rely on informal networks and associations" for survival. Meanwhile, as the state constantly violates the right of the citizen and deprive them social justice and economic opportunity, the people have come to perceive the state as predatory and evil that should be avoided and feared and consequently, they (citizens) are not concerned about working in any way towards national development.

Suffice it to say that poverty in Nigeria has contributed in no small way to corruption which adversely affects the country's national development. It is important to note that politics in Nigeria has become a "Zero Sum Game" which simply means-winner takes all. This statement cannot be divorced from the deepening contradictions perpetuated by the Structural Adjustment Programme which to many, contributed to worsening poverty, unemployment, starvation and hunger and have forced the people to seek for the need to go and search for their daily needs via all other available means apart from the societal designated means.

Fundamentally, it is public knowledge that the rate of corruption and abuse of public office in Nigeria is quite embarrassing looking at the degree it has now reached. This is why scholars such as (Olorode, 2006:5, (Oko, 2008:33) have argued that corruption and the desire for self-advantage have overwhelmed the ideal of public service and turned public institutions into crucibles of sloth, avarice and mediocrity. Poor leadership, shaggy government policies and poverty continue to expose public servants to control, manipulation and corrupt practices). Since the dominant source of private wealth is public treasury, looting public treasury will be, and had become, a major way of promoting privatization (Olorode, 2006:5).

From the above proposition, this paper holds that one of the factors responsible for extreme poverty, hunger and starvation in Nigeria in spite of its huge resources is the challenge of responsible and responsive leadership. According to former President of Nigeria (Olusegun Obasanjo, cited in Alechenu, 2013), leadership deficit in Nigeria had robbed it of meaningful development and has become a clog on the nation's wheel of progress. This is to say that most of the challenges befalling Nigeria can be traced largely to poor and lack competent and purposeful leadership be it political, traditional and even at the family level. The above statement is unconnected with the fact that most leaders that have emerged in the history of Nigeria have been ill equipped and have not been able to identify the actual problems facing the nation.

V. Concluding Remarks

This paper has interrogated the dimensions of poverty and how it affects national development in Nigeria. It views poverty as a phenomenon that affects the socio-economic and political conditions of nations and their citizenry. It has been established that poverty is a recipe for social injustice and crime. And as such, the worsening dimensions of poverty in the country pose threat to Nigeria's national development in moral, economic and political ramifications. Based on the analysis and findings of this paper, the following recommendations are hereby made:

There is need for government to device strategy for eliminating poverty. It should focus sharply on and regard as its primary responsibility to the challenge of seeing the development of the country as essentially a human development.

The poor should be involved in the design and implementation of policies and programmes that concern them because they know better the challenges facing them in their various communities. This should be seen as a task because as poverty increases in level so it increases the chances of posing direct challenge to the nation's economic stability.

There is also urgent need for Nigerian government to give credence to technological advancement as the world today has become a global village as a result of the development of Information and Communication Technology. By so doing, there could be partnership among the people so as to enhance sustainable development via the people's ownership of productive resources or assets.

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We accept the manuscript submissions in any standard (generic) format.

We typeset manuscripts using advanced typesetting tools like Adobe In Design, CorelDraw, TeXnicCenter, and TeXStudio. We usually recommend authors submit their research using any standard format they are comfortable with, and let Global Journals do the rest.

Alternatively, you can download our basic template from https://globaljournals.org/Template.zip

Authors should submit their complete paper/article, including text illustrations, graphics, conclusions, artwork, and tables. Authors who are not able to submit manuscript using the form above can email the manuscript department at submit@globaljournals.org or get in touch with chiefeditor@globaljournals.org if they wish to send the abstract before submission.

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Authors must ensure the information provided during the submission of a paper is authentic. Please go through the following checklist before submitting:

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4. Manuscript to be submitted must include keywords, an abstract, a paper title, co-author(s') names and details (email address, name, phone number, and institution), figures and illustrations in vector format including appropriate captions, tables, including titles and footnotes, a conclusion, results, acknowledgments and references.
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Unless specified in the notification, the Editorial Board's decision on publication of the paper is final and cannot be appealed before making the major change in the manuscript.

Acknowledgments

Contributors to the research other than authors credited should be mentioned in Acknowledgments. The source of funding for the research can be included. Suppliers of resources may be mentioned along with their addresses.

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Authors can submit papers and articles in an acceptable file format: MS Word (doc, docx), LaTeX (.tex, .zip or .rar including all of your files), Adobe PDF (.pdf), rich text format (.rtf), simple text document (.txt), Open Document Text (.odt), and Apple Pages (.pages). Our professional layout editors will format the entire paper according to our official guidelines. This is one of the highlights of publishing with Global Journals—authors should not be concerned about the formatting of their paper. Global Journals accepts articles and manuscripts in every major language, be it Spanish, Chinese, Japanese, Portuguese, Russian, French, German, Dutch, Italian, Greek, or any other national language, but the title, subtitle, and abstract should be in English. This will facilitate indexing and the pre-peer review process.

The following is the official style and template developed for publication of a research paper. Authors are not required to follow this style during the submission of the paper. It is just for reference purposes.

Manuscript Style Instruction (Optional)

- Microsoft Word Document Setting Instructions.
- Font type of all text should be Swis721 Lt BT.
- Page size: 8.27" x 11'", left margin: 0.65, right margin: 0.65, bottom margin: 0.75.
- Paper title should be in one column of font size 24.
- Author name in font size of 11 in one column.
- Abstract: font size 9 with the word "Abstract" in bold italics.
- Main text: font size 10 with two justified columns.
- Two columns with equal column width of 3.38 and spacing of 0.2.
- First character must be three lines drop-capped.
- The paragraph before spacing of 1 pt and after of 0 pt.
- Line spacing of 1 pt.
- Large images must be in one column.
- The names of first main headings (Heading 1) must be in Roman font, capital letters, and font size of 10.
- The names of second main headings (Heading 2) must not include numbers and must be in italics with a font size of 10.

Structure and Format of Manuscript

The recommended size of an original research paper is under 15,000 words and review papers under 7,000 words. Research articles should be less than 10,000 words. Research papers are usually longer than review papers. Review papers are reports of significant research (typically less than 7,000 words, including tables, figures, and references)

A research paper must include:

a) A title which should be relevant to the theme of the paper.
b) A summary, known as an abstract (less than 150 words), containing the major results and conclusions.
c) Up to 10 keywords that precisely identify the paper's subject, purpose, and focus.
d) An introduction, giving fundamental background objectives.
e) Resources and techniques with sufficient complete experimental details (wherever possible by reference) to permit repetition, sources of information must be given, and numerical methods must be specified by reference.
f) Results which should be presented concisely by well-designed tables and figures.
g) Suitable statistical data should also be given.
h) All data must have been gathered with attention to numerical detail in the planning stage.

Design has been recognized to be essential to experiments for a considerable time, and the editor has decided that any paper that appears not to have adequate numerical treatments of the data will be returned unrefereed.

i) Discussion should cover implications and consequences and not just recapitulate the results; conclusions should also be summarized.
j) There should be brief acknowledgments.
k) There ought to be references in the conventional format. Global Journals recommends APA format.

Authors should carefully consider the preparation of papers to ensure that they communicate effectively. Papers are much more likely to be accepted if they are carefully designed and laid out, contain few or no errors, are summarizing, and follow instructions. They will also be published with much fewer delays than those that require much technical and editorial correction.

The Editorial Board reserves the right to make literary corrections and suggestions to improve brevity.

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Author details

The full postal address of any related author(s) must be specified.

Abstract

The abstract is the foundation of the research paper. It should be clear and concise and must contain the objective of the paper and inferences drawn. It is advised to not include big mathematical equations or complicated jargon.

Many researchers searching for information online will use search engines such as Google, Yahoo or others. By optimizing your paper for search engines, you will amplify the chance of someone finding it. In turn, this will make it more likely to be viewed and cited in further works. Global Journals has compiled these guidelines to facilitate you to maximize the web-friendliness of the most public part of your paper.

Keywords

A major lynchpin of research work for the writing of research papers is the keyword search, which one will employ to find both library and internet resources. Up to eleven keywords or very brief phrases have to be given to help data retrieval, mining, and indexing.

One must be persistent and creative in using keywords. An effective keyword search requires a strategy: planning of a list of possible keywords and phrases to try.

Choice of the main keywords is the first tool of writing a research paper. Research paper writing is an art. Keyword search should be as strategic as possible.

One should start brainstorming lists of potential keywords before even beginning searching. Think about the most important concepts related to research work. Ask, “What words would a source have to include to be truly valuable in a research paper?” Then consider synonyms for the important words.

It may take the discovery of only one important paper to steer in the right keyword direction because, in most databases, the keywords under which a research paper is abstracted are listed with the paper.

Numerical Methods

Numerical methods used should be transparent and, where appropriate, supported by references.

Abbreviations

Authors must list all the abbreviations used in the paper at the end of the paper or in a separate table before using them.

Formulas and equations

Authors are advised to submit any mathematical equation using either MathJax, KaTeX, or LaTeX, or in a very high-quality image.

Tables, Figures, and Figure Legends

Tables: Tables should be cautiously designed, uncrowned, and include only essential data. Each must have an Arabic number, e.g., Table 4, a self-explanatory caption, and be on a separate sheet. Authors must submit tables in an editable format and not as images. References to these tables (if any) must be mentioned accurately.

Figures

Figures are supposed to be submitted as separate files. Always include a citation in the text for each figure using Arabic numbers, e.g., Fig. 4. Artwork must be submitted online in vector electronic form or by emailing it.

Preparation of Eletronic Figures for Publication

Although low-quality images are sufficient for review purposes, print publication requires high-quality images to prevent the final product being blurred or fuzzy. Submit (possibly by e-mail) EPS (line art) or TIFF (halftone/ photographs) files only. MS PowerPoint and Word Graphics are unsuitable for printed pictures. Avoid using pixel-oriented software. Scans (TIFF only) should have a resolution of at least 350 dpi (halftone) or 700 to 1100 dpi (line drawings). Please give the data for figures in black and white or submit a Color Work Agreement form. EPS files must be saved with fonts embedded (and with a TIFF preview, if possible).

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Tips for writing a good quality Social Science Research Paper

Techniques for writing a good quality homan social science research paper:

1. Choosing the topic: In most cases, the topic is selected by the interests of the author, but it can also be suggested by the guides. You can have several topics, and then judge which you are most comfortable with. This may be done by asking several questions of yourself, like "Will I be able to carry out a search in this area? Will I find all necessary resources to accomplish the search? Will I be able to find all information in this field area?" If the answer to this type of question is "yes," then you ought to choose that topic. In most cases, you may have to conduct surveys and visit several places. Also, you might have to do a lot of work to find all the rises and falls of the various data on that subject. Sometimes, detailed information plays a vital role, instead of short information. Evaluators are human: The first thing to remember is that evaluators are also human beings. They are not only meant for rejecting a paper. They are here to evaluate your paper. So present your best aspect.

2. Think like evaluators: If you are in confusion or getting demotivated because your paper may not be accepted by the evaluators, then think, and try to evaluate your paper like an evaluator. Try to understand what an evaluator wants in your research paper, and you will automatically have your answer. Make blueprints of paper: The outline is the plan or framework that will help you to arrange your thoughts. It will make your paper logical. But remember that all points of your outline must be related to the topic you have chosen.

3. Ask your guides: If you are having any difficulty with your research, then do not hesitate to share your difficulty with your guide (if you have one). They will surely help you out and resolve your doubts. If you can't clarify what exactly you require for your work, then ask your supervisor to help you with an alternative. He or she might also provide you with a list of essential readings.

4. Use of computer is recommended: As you are doing research in the field of homan social science then this point is quite obvious. Use right software: Always use good quality software packages. If you are not capable of judging good software, then you can lose the quality of your paper unknowingly. There are various programs available to help you which you can get through the internet.

5. Use the internet for help: An excellent start for your paper is using Google. It is a wondrous search engine, where you can have your doubts resolved. You may also read some answers for the frequent question of how to write your research paper or find a model research paper. You can download books from the internet. If you have all the required books, place importance on reading, selecting, and analyzing the specified information. Then sketch out your research paper. Use big pictures: You may use encyclopedias like Wikipedia to get pictures with the best resolution. At Global Journals, you should strictly follow here.



6. Bookmarks are useful: When you read any book or magazine, you generally use bookmarks, right? It is a good habit which helps to not lose your continuity. You should always use bookmarks while searching on the internet also, which will make your search easier.

7. Revise what you wrote: When you write anything, always read it, summarize it, and then finalize it.

8. Make every effort: Make every effort to mention what you are going to write in your paper. That means always have a good start. Try to mention everything in the introduction—what is the need for a particular research paper. Polish your work with good writing skills and always give an evaluator what he wants. Make backups: When you are going to do any important thing like making a research paper, you should always have backup copies of it either on your computer or on paper. This protects you from losing any portion of your important data.

9. Produce good diagrams of your own: Always try to include good charts or diagrams in your paper to improve quality. Using several unnecessary diagrams will degrade the quality of your paper by creating a hodgepodge. So always try to include diagrams which were made by you to improve the readability of your paper. Use of direct quotes: When you do research relevant to literature, history, or current affairs, then use of quotes becomes essential, but if the study is relevant to science, use of quotes is not preferable.

10. Use proper verb tense: Use proper verb tenses in your paper. Use past tense to present those events that have happened. Use present tense to indicate events that are going on. Use future tense to indicate events that will happen in the future. Use of wrong tenses will confuse the evaluator. Avoid sentences that are incomplete.

11. Pick a good study spot: Always try to pick a spot for your research which is quiet. Not every spot is good for studying.

12. Know what you know: Always try to know what you know by making objectives, otherwise you will be confused and unable to achieve your target.

13. Use good grammar: Always use good grammar and words that will have a positive impact on the evaluator; use of good vocabulary does not mean using tough words which the evaluator has to find in a dictionary. Do not fragment sentences. Eliminate one-word sentences. Do not ever use a big word when a smaller one would suffice.

Verbs have to be in agreement with their subjects. In a research paper, do not start sentences with conjunctions or finish them with prepositions. When writing formally, it is advisable to never split an infinitive because someone will (wrongly) complain. Avoid clichés like a disease. Always shun irritating alliteration. Use language which is simple and straightforward. Put together a neat summary.

14. Arrangement of information: Each section of the main body should start with an opening sentence, and there should be a changeover at the end of the section. Give only valid and powerful arguments for your topic. You may also maintain your arguments with records.

15. Never start at the last minute: Always allow enough time for research work. Leaving everything to the last minute will degrade your paper and spoil your work.

16. Multitasking in research is not good: Doing several things at the same time is a bad habit in the case of research activity. Research is an area where everything has a particular time slot. Divide your research work into parts, and do a particular part in a particular time slot.

17. Never copy others' work: Never copy others' work and give it your name because if the evaluator has seen it anywhere, you will be in trouble. Take proper rest and food: No matter how many hours you spend on your research activity, if you are not taking care of your health, then all your efforts will have been in vain. For quality research, take proper rest and food.

18. Go to seminars: Attend seminars if the topic is relevant to your research area. Utilize all your resources.
Refresh your mind after intervals: Try to give your mind a rest by listening to soft music or sleeping in intervals. This will also improve your memory. Acquire colleagues: Always try to acquire colleagues. No matter how sharp you are, if you acquire colleagues, they can give you ideas which will be helpful to your research.

19. Think technically: Always think technically. If anything happens, search for its reasons, benefits, and demerits. Think and then print: When you go to print your paper, check that tables are not split, headings are not detached from their descriptions, and page sequence is maintained.

20. Adding unnecessary information: Do not add unnecessary information like "I have used MS Excel to draw graphs." Irrelevant and inappropriate material is superfluous. Foreign terminology and phrases are not apropos. One should never take a broad view. Analogy is like feathers on a snake. Use words properly, regardless of how others use them. Remove quotations. Puns are for kids, not grunt readers. Never oversimplify: When adding material to your research paper, never go for oversimplification; this will definitely irritate the evaluator. Be specific. Never use rhythmic redundancies. Contractions shouldn't be used in a research paper. Comparisons are as terrible as clichés. Give up ampersands, abbreviations, and so on. Remove commas that are not necessary. Parenthetical words should be between brackets or commas. Understatement is always the best way to put forward earth-shaking thoughts. Give a detailed literary review.

21. Report concluded results: Use concluded results. From raw data, filter the results, and then conclude your studies based on measurements and observations taken. An appropriate number of decimal places should be used. Parenthetical remarks are prohibited here. Proofread carefully at the final stage. At the end, give an outline to your arguments. Spot perspectives of further study of the subject. Justify your conclusion at the bottom sufficiently, which will probably include examples.

22. Upon conclusion: Once you have concluded your research, the next most important step is to present your findings. Presentation is extremely important as it is the definite medium though which your research is going to be in print for the rest of the crowd. Care should be taken to categorize your thoughts well and present them in a logical and neat manner. A good quality research paper format is essential because it serves to highlight your research paper and bring to light all necessary aspects of your research.

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Informal Guidelines of Research Paper Writing

Key points to remember:

- Submit all work in its final form.
- Write your paper in the form which is presented in the guidelines using the template.
- Please note the criteria peer reviewers will use for grading the final paper.

Final points:

One purpose of organizing a research paper is to let people interpret your efforts selectively. The journal requires the following sections, submitted in the order listed, with each section starting on a new page:

The introduction: This will be compiled from reference matter and reflect the design processes or outline of basis that directed you to make a study. As you carry out the process of study, the method and process section will be constructed like that. The results segment will show related statistics in nearly sequential order and direct reviewers to similar intellectual paths throughout the data that you gathered to carry out your study.

The discussion section:

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Writing a research paper is not an easy job, no matter how trouble-free the actual research or concept. Practice, excellent preparation, and controlled record-keeping are the only means to make straightforward progression.

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To make a paper clear: Adhere to recommended page limits.



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- In every section of your document, use standard writing style, including articles ("a" and "the").
- Keep paying attention to the topic of the paper.
- Use paragraphs to split each significant point (excluding the abstract).
- Align the primary line of each section.
- Present your points in sound order.
- Use present tense to report well-accepted matters.
- Use past tense to describe specific results.
- Do not use familiar wording; don't address the reviewer directly. Don't use slang or superlatives.
- Avoid use of extra pictures—include only those figures essential to presenting results.

Title page:

Choose a revealing title. It should be short and include the name(s) and address(es) of all authors. It should not have acronyms or abbreviations or exceed two printed lines.

Abstract: This summary should be two hundred words or less. It should clearly and briefly explain the key findings reported in the manuscript and must have precise statistics. It should not have acronyms or abbreviations. It should be logical in itself. Do not cite references at this point.

An abstract is a brief, distinct paragraph summary of finished work or work in development. In a minute or less, a reviewer can be taught the foundation behind the study, common approaches to the problem, relevant results, and significant conclusions or new questions.

Write your summary when your paper is completed because how can you write the summary of anything which is not yet written? Wealth of terminology is very essential in abstract. Use comprehensive sentences, and do not sacrifice readability for brevity; you can maintain it succinctly by phrasing sentences so that they provide more than a lone rationale. The author can at this moment go straight to shortening the outcome. Sum up the study with the subsequent elements in any summary. Try to limit the initial two items to no more than one line each.

Reason for writing the article—theory, overall issue, purpose.

- Fundamental goal.
- To-the-point depiction of the research.
- Consequences, including definite statistics—if the consequences are quantitative in nature, account for this; results of any numerical analysis should be reported. Significant conclusions or questions that emerge from the research.

Approach:

- Single section and succinct.
- An outline of the job done is always written in past tense.
- Concentrate on shortening results—limit background information to a verdict or two.
- Exact spelling, clarity of sentences and phrases, and appropriate reporting of quantities (proper units, important statistics) are just as significant in an abstract as they are anywhere else.

Introduction:

The introduction should "introduce" the manuscript. The reviewer should be presented with sufficient background information to be capable of comprehending and calculating the purpose of your study without having to refer to other works. The basis for the study should be offered. Give the most important references, but avoid making a comprehensive appraisal of the topic. Describe the problem visibly. If the problem is not acknowledged in a logical, reasonable way, the reviewer will give no attention to your results. Speak in common terms about techniques used to explain the problem, if needed, but do not present any particulars about the protocols here.

The following approach can create a valuable beginning:

- Explain the value (significance) of the study.
- Defend the model—why did you employ this particular system or method? What is its compensation? Remark upon its appropriateness from an abstract point of view as well as pointing out sensible reasons for using it.
- Present a justification. State your particular theory(-ies) or aim(s), and describe the logic that led you to choose them.
- Briefly explain the study's tentative purpose and how it meets the declared objectives.

Approach:

Use past tense except for when referring to recognized facts. After all, the manuscript will be submitted after the entire job is done. Sort out your thoughts; manufacture one key point for every section. If you make the four points listed above, you will need at least four paragraphs. Present surrounding information only when it is necessary to support a situation. The reviewer does not desire to read everything you know about a topic. Shape the theory specifically—do not take a broad view.

As always, give awareness to spelling, simplicity, and correctness of sentences and phrases.

Procedures (methods and materials):

This part is supposed to be the easiest to carve if you have good skills. A soundly written procedures segment allows a capable scientist to replicate your results. Present precise information about your supplies. The suppliers and clarity of reagents can be helpful bits of information. Present methods in sequential order, but linked methodologies can be grouped as a segment. Be concise when relating the protocols. Attempt to give the least amount of information that would permit another capable scientist to replicate your outcome, but be cautious that vital information is integrated. The use of subheadings is suggested and ought to be synchronized with the results section.

When a technique is used that has been well-described in another section, mention the specific item describing the way, but draw the basic principle while stating the situation. The purpose is to show all particular resources and broad procedures so that another person may use some or all of the methods in one more study or referee the scientific value of your work. It is not to be a step-by-step report of the whole thing you did, nor is a methods section a set of orders.

Materials:

Materials may be reported in part of a section or else they may be recognized along with your measures.

Methods:

- Report the method and not the particulars of each process that engaged the same methodology.
- Describe the method entirely.
- To be succinct, present methods under headings dedicated to specific dealings or groups of measures.
- Simplify—detail how procedures were completed, not how they were performed on a particular day.
- If well-known procedures were used, account for the procedure by name, possibly with a reference, and that's all.

Approach:

It is embarrassing to use vigorous voice when documenting methods without using first person, which would focus the reviewer's interest on the researcher rather than the job. As a result, when writing up the methods, most authors use third person passive voice.

Use standard style in this and every other part of the paper—avoid familiar lists, and use full sentences.

What to keep away from:

- Resources and methods are not a set of information.
- Skip all descriptive information and surroundings—save it for the argument.
- Leave out information that is immaterial to a third party.



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Results:

The principle of a results segment is to present and demonstrate your conclusion. Create this part as entirely objective details of the outcome, and save all understanding for the discussion.

The page length of this segment is set by the sum and types of data to be reported. Use statistics and tables, if suitable, to present consequences most efficiently.

You must clearly differentiate material which would usually be incorporated in a study editorial from any unprocessed data or additional appendix matter that would not be available. In fact, such matters should not be submitted at all except if requested by the instructor.

Content:

- Sum up your conclusions in text and demonstrate them, if suitable, with figures and tables.
- In the manuscript, explain each of your consequences, and point the reader to remarks that are most appropriate.
- Present a background, such as by describing the question that was addressed by creation of an exacting study.
- Explain results of control experiments and give remarks that are not accessible in a prescribed figure or table, if appropriate.
- Examine your data, then prepare the analyzed (transformed) data in the form of a figure (graph), table, or manuscript.

What to stay away from:

- Do not discuss or infer your outcome, report surrounding information, or try to explain anything.
- Do not include raw data or intermediate calculations in a research manuscript.
- Do not present similar data more than once.
- A manuscript should complement any figures or tables, not duplicate information.
- Never confuse figures with tables—there is a difference.

Approach:

As always, use past tense when you submit your results, and put the whole thing in a reasonable order.

Put figures and tables, appropriately numbered, in order at the end of the report.

If you desire, you may place your figures and tables properly within the text of your results section.

Figures and tables:

If you put figures and tables at the end of some details, make certain that they are visibly distinguished from any attached appendix materials, such as raw facts. Whatever the position, each table must be titled, numbered one after the other, and include a heading. All figures and tables must be divided from the text.

Discussion:

The discussion is expected to be the trickiest segment to write. A lot of papers submitted to the journal are discarded based on problems with the discussion. There is no rule for how long an argument should be.

Position your understanding of the outcome visibly to lead the reviewer through your conclusions, and then finish the paper with a summing up of the implications of the study. The purpose here is to offer an understanding of your results and support all of your conclusions, using facts from your research and generally accepted information, if suitable. The implication of results should be fully described.

Infer your data in the conversation in suitable depth. This means that when you clarify an observable fact, you must explain mechanisms that may account for the observation. If your results vary from your prospect, make clear why that may have happened. If your results agree, then explain the theory that the proof supported. It is never suitable to just state that the data approved the prospect, and let it drop at that. Make a decision as to whether each premise is supported or discarded or if you cannot make a conclusion with assurance. Do not just dismiss a study or part of a study as "uncertain."



Research papers are not acknowledged if the work is imperfect. Draw what conclusions you can based upon the results that you have, and take care of the study as a finished work.

- You may propose future guidelines, such as how an experiment might be personalized to accomplish a new idea.
- Give details of all of your remarks as much as possible, focusing on mechanisms.
- Make a decision as to whether the tentative design sufficiently addressed the theory and whether or not it was correctly restricted. Try to present substitute explanations if they are sensible alternatives.
- One piece of research will not counter an overall question, so maintain the large picture in mind. Where do you go next? The best studies unlock new avenues of study. What questions remain?
- Recommendations for detailed papers will offer supplementary suggestions.

Approach:

When you refer to information, differentiate data generated by your own studies from other available information. Present work done by specific persons (including you) in past tense.

Describe generally acknowledged facts and main beliefs in present tense.

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Introduction	Containing all background details with clear goal and appropriate details, flow specification, no grammar and spelling mistake, well organized sentence and paragraph, reference cited	Unclear and confusing data, appropriate format, grammar and spelling errors with unorganized matter	Out of place depth and content, hazy format
Methods and Procedures	Clear and to the point with well arranged paragraph, precision and accuracy of facts and figures, well organized subheads	Difficult to comprehend with embarrassed text, too much explanation but completed	Incorrect and unorganized structure with hazy meaning
Result	Well organized, Clear and specific, Correct units with precision, correct data, well structuring of paragraph, no grammar and spelling mistake	Complete and embarrassed text, difficult to comprehend	Irregular format with wrong facts and figures
Discussion	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
References	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring

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