



The Nigerian **ACCOUNTANT**

THE OFFICIAL JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA

JANUARY/MARCH, 2016

Vol.49, No.1

THE NAIRA:

Under Pressure





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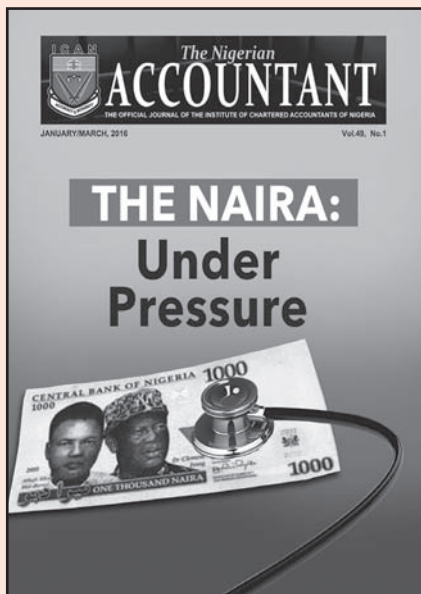
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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA

(Established by Act of Parliament No.15 of 1965)

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Mission Statement

To produce world-class chartered accountants, regulate and continually enhance their ethical standards and technical competence in the public interest.

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From The Editor

To say that Nigeria's foreign exchange earnings and reserves are about ninety-five percent dependent on crude oil which is its dominant export commodity, is saying the obvious. No wonder the recent fall in the price of the commodity at the International market has subjected the value of the naira to a serious unprecedented pressure since the beginning of 2016. With the fall in the price of Nigeria's major export, there's no gainsaying the fact that expectedly, the country's foreign exchange reserves would seriously be pressured.

As a result, our lead article in this edition entitled "**The Naira: Under Pressure**" written by a World Bank Financial Expert, Dr. Ed Olowookere, is centered on the implications of the fall of the naira value on the economy.

The writer in his opinion expressed fear that the fall might bring about grievous consequences such as inability of some companies to source input from outside the country and the impact on their operations, lack of investors' confidence and possible capital flight.

However, Dr. Olowookere made some suggestions on the way forward for the Nigerian government. He opined that the wide margin between the black market rate and the official rate of the naira indicates that policy decisions and forces of demand and supply for foreign currencies in Nigeria are presently not aligned. He suggested that the two needs to be aligned before any decision about the naira exchange rate could be deemed rational.

On whether the naira should be devalued or not, the financial expert suggested that the Central Bank of Nigeria (CBN) has two basic choices. According to him, CBN should either continue defending the naira at the current official exchange rate or to devalue the naira, adding that the apex bank had already made its choice.

He finally suggested that whatever action the government takes, it should allow consistency in rules and policies, avoid foreign over-regulation and currency restrictions as well as good communication, more with the economic players.

Recently, about 193 Heads of State and Government under the United Nations in New York, USA, converged to adopt the seventeen Sustainable Development Goals (SDGs) which are to accomplish the unfinished targets embedded in the eight (8) Millennium Development Goals (MDGs).

As part of its contributions to this global cause, the 32nd Annual Session of Inter-governmental Working Group of Experts of the International Standards of Accounting and Reporting (ISAR) of the United Nations Conference on Trade and Development (UNCTAD) which took place in Geneva, Switzerland, was devoted to the SDGs. The Institute's Deputy Registrar (Technical), Mr. Abel Asein was at the Conference. His report entitled "**UNCTAD/ISAR Session on Sustainable Development Goals and Corporate Reporting**" which captured the essence of the Conference is published in the edition.

On our health page, we publish a write-up on the lassa fever currently ravaging the country. All you need to know such as symptoms, causes and treatment are contained in the piece.

Your comments on this edition are welcome.

Please write to:

corporateaffairs@ican.org.ng or

aowolabi@ican.org.ng

Lassa Fever Outbreak: *All You Need to Know*

Key Facts

- ★ Lassa fever is an acute viral haemorrhagic illness of 1-4 weeks duration that occurs in West Africa.
- ★ The Lassa virus is transmitted to humans via contact with food or household items contaminated with rodent urine or faeces.
- ★ Person-to-person infections and laboratory transmission can also occur, particularly in hospitals lacking adequate infection prevent and control measures.
- ★ Lassa fever is known to be endemic in Benin (where it was diagnosed for the first time in November 2014), Guinea, Liberia, Sierra Leone and parts of Nigeria, but probably exists in other West African countries as well.
- ★ The overall case-fatality rate is 1%. Observed case-fatality rate among patients hospitalised with severe cases of Lassa fever is 15%.
- ★ Early supportive care with rehydration and symptomatic treatment improves survival.

Background

Though first described in the 1950s, the virus causing Lassa disease was not identified until 1969. The virus is a single-stranded RNA virus belonging to the virus family *Arenaviridae*. About 80% of people who become infected with Lassa virus have no symptoms. One in five infections result in severe disease, where the virus affects several organs such as the liver, spleen and kidneys.

Lassa fever is a zoonotic disease, meaning that humans become infected from contact with infected animals. The animal reservoir, or host, of Lassa virus is a rodent of the genus *Mastomys*, commonly known as the “multimammate rat.” *Mastomys* rats infected with Lassa virus do not become ill, but they can shed the virus in their urine and faeces.

Because the clinical course of the disease is so variable, detection of the disease in affected patients has been difficult. However, when presence of the disease is confirmed in a community, prompt isolation of affected patients, good infection protection and control practices and rigorous contact tracing can stop outbreaks.

Symptoms of Lassa fever

The incubation period of Lassa fever ranges from 6-21 days. The onset of the disease, when it is symptomatic, is usually gradual, starting with fever, general weakness, and malaise. After a few days, headache, sore throat, muscle pain, chest pain, nausea, vomiting, diarrhoea, cough, and abdominal pain may follow. In severe cases facial swelling, fluid in the lung cavity, bleeding from the mouth, nose, vagina or gastrointestinal tract and low blood pressure may develop. Protein may be noted in the urine. Shock, seizures, tremor, disorientation, and coma may be seen in the later stages. Deafness occurs in 25% of patients who survive the disease. In half of these

cases, hearing returns partially after 1-3 months. Transient hair loss and gait disturbance may occur during recovery.

Death usually occurs within 14 days of onset in fatal cases. The disease is especially severe late in pregnancy, with maternal death and/or fetal loss occurring in greater than 80% of cases during the third trimester.

Transmission

Humans usually become infected with Lassa virus from exposure to urine or faeces of infected *Mastomys* rats. Lassa virus may also be spread between humans through direct contact with the blood, urine, faeces, or other bodily secretions of a person infected with Lassa fever. There is no epidemiological evidence supporting airborne spread between humans. Person-to-person transmission occurs in both community and health-care settings, where the virus may be spread by contaminated medical equipment, such as re-used needles. Sexual transmission of Lassa virus has been reported.

Lassa fever occurs in all age groups and both sexes. Persons at greatest risk are those living in rural areas where *Mastomys* are usually found, especially in communities with poor sanitation or crowded living conditions. Health workers are at risk if caring for Lassa fever patients in the absence of proper barrier nursing and infection control practices.

Diagnosis

Because the symptoms of Lassa fever are so varied and non-specific, clinical diagnosis is often difficult, especially early in the course of the disease. Lassa fever is difficult to distinguish from other viral haemorrhagic fevers such as Ebola virus disease; and many other diseases that cause fever, including malaria, shigellosis, typhoid fever and yellow fever.

Definitive diagnosis requires testing that is available only in specialised laboratories. Laboratory specimens may be hazardous and must be handled with extreme care. Lassa virus infections can only be diagnosed definitively in the laboratory using the following tests:

- ★ Antibody enzyme-linked immunosorbent assay (ELISA).
- ★ Antigen detection tests.
- ★ Reverse transcriptase polymerase chain reaction (RT-PCR) assay.
- ★ Virus isolation by cell culture.

Treatment and Vaccines

The antiviral drug ribavirin seems to be an effective treatment for Lassa fever if given early on in the course of clinical illness. There is no evidence to support the role of ribavirin as post-exposure prophylactic treatment for Lassa fever.

There is currently no vaccine that protects against Lassa fever.

Prevention and Control

Prevention of Lassa fever relies on promoting good “community hygiene” to discourage rodents from entering homes. Effective measures include storing grain and other foodstuffs in rodent-proof containers, disposing of garbage far from the home, maintaining clean households and keeping cats. Because *Mastomys* are so abundant in endemic areas, it is not possible to completely eliminate them from the environment. Family members should always be careful to avoid contact with blood and body fluids while caring for sick persons.

In health-care settings, staff should always apply standard infection prevention and control precautions when caring for patients, regardless of their presumed diagnosis. These include basic hand hygiene, respiratory hygiene, use of personal protective equipment (to block splashes or other contact with infected materials), safe injection practices and safe burial practices.

Health workers caring for patients with suspected or confirmed Lassa fever should apply extra infection control measures to prevent contact with the patient’s blood and body fluids and contaminated surfaces or materials such as clothing and bedding. When in close contact (within 1 metre) of patients with Lassa fever, health-care workers should wear face protection (a face shield or a medical mask and goggles), a clean, non-sterile long-sleeved gown, and gloves (sterile gloves for some procedures).

Laboratory workers are also at risk. Samples taken from humans and animals for investigation of Lassa virus infection

should be handled by trained staff and processed in suitably equipped laboratories.

On rare occasions, travellers from areas where Lassa fever is endemic export the disease to other countries. Although malaria, typhoid fever, and many other tropical infections are much more common, the diagnosis of Lassa fever should be considered in febrile patients returning from West Africa, especially if they have had exposures in rural areas or hospitals in countries where Lassa fever is known to be endemic. Health-care workers seeing a patient suspected to have Lassa fever should immediately contact local and national experts for advice and to arrange for laboratory testing.

WHO Response

The Ministries of Health of Guinea, Liberia and Sierra Leone, WHO, the Office of United States Foreign Disaster Assistance, the United Nations, and other partners have worked together to establish the Mano River Union Lassa Fever Network. The programme supports these 3 countries in developing national prevention strategies and enhancing laboratory diagnostics for Lassa fever and other dangerous diseases. Training in laboratory diagnosis, clinical management, and environmental control is also included. In addition, a new ward dedicated to the care of patients with Lassa fever is under construction in Sierra Leone, sponsored by the European Union. ●

** Culled from www.worldhealthorganisation.int*

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ICAN President, Otunba Olufemi Deru (left) with Alake of Egbaland, HRM, Oba Adedotun Aremu Gbadebo during ICAN President's courtesy visit to the monarch

Alake Describes ICAN as the Most Noble Professional Body

The Institute of Chartered Accountants of Nigeria (ICAN) has been described as the most noble and enviable professional body in modern times. This credibility assessment was handed down by the Alake and Paramount Ruler of Egbaland, Oba (Dr) Adedotun Aremu Gbadabo, CFR at his palace when he welcomed the 51st President of ICAN, Otunba Femi Deru who paid him a congratulatory visit on his 75th birthday and 10th year coronation anniversary.

The Paramount Ruler, Okukenu IV said he appreciated the visit of the ICAN team, noting that he was proud to be associated with the professional body who has contributed positively to the economic growth of the nation. He extolled the Institute's virtues and praised the accounting profession which he said has been of a tremendous support to national development given the number of members of the Institute serving in various areas of the society.

He willingly doled out royal blessings on Otunba Deru who had earlier in his address sought the royal father's blessings.

The President congratulated the Alake for his ability to blend tradition and modernity since his accession to the throne which has enabled the Egba people to continually experience peace and remarkable development due to his sterling qualities and leadership style. According to him, "your amiable disposition and achievements clearly affirm that traditional institutions have great roles to play as we strive to build the nation of our dream."

He assured the royal father of ICAN's commitment and support for the anti-corruption crusade of the present administration. "As a professional Institute, we will do everything possible within our statutory responsibility to assist the government to succeed in this course," he said.

ICAN Pledges Support for LIRS

The Board of Lagos State Internal Revenue Service (LIRS) has been assured of the support of the Institute of Chartered Accountants of Nigeria. This pledge was made by the 51st President of the Institute, Otunba Femi Deru at the office of the Chairman of the Board, Mr. Olufolarin Ogunsanwo when he paid him a courtesy visit recently.

According to the President, the visit was necessary to consolidate and strengthen the cordial relationship that has made ICAN and LIRS partners in progress for many years. "I am confident that you and your team are on top of your game but let me at this juncture assure you that if there are ways you require the services of our members, that is, ICAN in the drive towards achieving completeness of taxable individuals and corporation, we shall not hesitate to provide such professional assistance. As an Institute, our mandate and commitment to continuously build capacity for the requisite personnel for the efficient and effective accomplishment of this all important tasks in line with best practice is unwavering."

Speaking further, Otunba Deru said the importance of LIRS in the social economic affairs of Lagos state cannot be over emphasised, noting that the success story of Lagos State would not be complete without mentioning the hard work of the Board which has now become the benchmark for revenue generation for many States in Nigeria.

The Chairman of the Board affirmed that the job of revenue generation through tax is enormous and challenging arguing that the task of capturing all taxable individuals and corporations in a system where records are inadequate and sometimes inaccurate is daunting.

He therefore expressed appreciation at ICAN's initiative to lend support to LIRS in technical areas.



Chairman, Lagos State Inland Revenue Service, Mr. Olufolarin Ogunsanwo (left); ICAN President, Otunba Olufemi Deru; ICAN Registrar/Chief Executive, Mr. Rotimi Omotoso during ICAN's visit to LIRS

ICAN Backs e-Collection of Government Levies

The Institute has expressed its support for the deployment of the e-collection scheme for prompt collection and remittance of all government levies. The support was disclosed during a courtesy visit to the Accountant-General of the Federation, Alhaji Ahmed Idris by the President of the Institute, Otunba Olufemi Deru.

According to ICAN President, the visit was to consolidate and strengthen the bilateral relationship between the Institute and the Office of the Accountant-General. He also acknowledged the installation and operations of effective accounting system for efficient control of the nation's finances.

"The Institute would collaborate with the office of the Accountant General as a way of ensuring undiluted success of the Treasury Single Account (TSA) policy of the Federal government," Deru expressed.

He also expressed the readiness of the Institute to maintain harmonious relationship with the Office of the Accountant General of the Federation (OAGF) on the implementation of International Public Sector Accounting Standards (IPSAS), as a common platform for financial reporting in the public sector.

He therefore sought partnership of the OAGF with the Institute on capacity building and other technical areas of IPSAS while appealing to the Accountant-General to employ more members of the Institute either as employees or for consultancy purposes.

Responding, the Accountant-General acknowledged the uniqueness of ICAN brand as topmost brand which could not be pushed aside in the nation's economy. On the issue of capacity building, he assured the ICAN President that his office would put forward a proposal to the Institute on this, adding that he accepted the ICAN hand of fellowship on technical support for IPSAS.

ICAN-UK & District Celebrates Silver Jubilee

The ICAN-UK & District Society held its Annual Dinner and Dance as well as its Silver Jubilee celebration recently at the Hilton Canary Wharf, South Quays Marsh Wall, London. The event was under the Chairmanship of Nigeria's Acting High Commissioner to the Court of St. James, Ambassador Olakunle Akindele Bamgbose who was represented by Prince T.G. Adeniyi, a Director in the office of the High Commissioner.

In the address of the High Commissioner read by his representative, he acknowledged the positive roles of ICAN members in the United Kingdom and enjoined them to embrace the change mantra of the new administration in order to help drive the Nigeria project in their respective public or private work environment. He praised the professional disposition of members in handling assignments entrusted in their care and urged them to continue on this part of honour.



Members of ICAN led by the 51st President Otunba Olufemi Deru during a visit to the Accountant-General of the Federation, Alhaji Ahmed Idris

In his own speech, the ICAN President, Otunba Femi Deru conveyed the felicitation of the Council to members of the District Society on its double celebration. He described the District as the Institute's foremost ambassador outside the shores of Nigeria, adding that their members' suggestions and ideas had positively impacted the image of ICAN as the flagship of professional accountancy bodies in Africa.

He enjoined all members of the District Society to continue to fly the flag of the Institute and Nigeria with distinction in the United Kingdom by upholding the revered ethics of the noble profession.

CITN President Lauds MoU with ICAN

The President of the Chartered Institute of Taxation of Nigeria (CITN), Dr. (Mrs.) Olateju Somorin has commended the Council of the Institute of Chartered Accountants of Nigeria (ICAN), for agreeing to resolve the misunderstanding between both professional bodies, on the terms contained in the MoU signed by both parties.

Somorin made this known when she led a delegation comprising her Institute's Past Presidents, Council Members and other principal officers on a courtesy visit to ICAN where they were received by ICAN President, Otunba Olufemi Deru.

In her address, the CITN President stressed the need for both parties to meet the aspirations and dreams of all stakeholders in the Accounting and Tax professions so as to facilitate economic growth in the nation. She posited that other areas of mutual cooperation and opportunities by both Institutes on matters rather than Accounting and Tax, such as conferences, seminars & workshops could also be harnessed. She also advised that continuous implementation and strict adherence to both Institutes' code of ethics by members should be ensured.

In his response, the ICAN President thanked Somorin and her team for the visit and assured her of ICAN's professional support to the Taxation Institute. ●

ICAN MEMBERS' BENEFIT

The Institute is into strategic partnership with various service providers to give members additional benefits for fulfilling their membership obligation. Below are some of these benefits:

INSURANCE

Life Assurance scheme of up to N1.5million sum assured is available to the Next of Kin of a deceased member at:

- Mutual Benefits Assurance.
- Goldlink Insurance PLC.
- Capital Express Assurance.
- FBN Life Nigeria Limited.

A special Motor Insurance Package is also available for members at Mutual Benefit Assurance.

CREDIT CARD WITH STANBIC/IBTC BANK

Stanbic IBTC Bank has launched a credit card scheme for members of the Institute. The service provides Fellows and Associates of the Institute a standby credit at no interest. Fellows of ICAN can access up to N400,000 (Four Hundred Thousand Naira) for 55 days while Associates can access up to N120,000 (One Hundred and Twenty Thousand Naira) for the same duration.

Members can access credit from Stanbic IBTC by downloading the forms on the ICAN website and dropping off at any ICAN secretariat where a Stanbic staff will process the request. The card is issued in partnership with Visa international and allows usage both locally and internationally. It can also be used on all payment channels — ATM, Point of Sale and Online. The card will also attract discounts and benefits when used to make membership due payments to ICAN.

ICAN MEMBERS' BENEVOLENT FUND

The Members' Benevolent Fund was set up to assist indigent members settle Children Education, Medical Bills and also supports members with Permanent Disability.

RESEARCH GRANT

As part of its efforts to expand the frontiers of knowledge in accounting, the Institute established an Accounting Research Fund of N500,000 with which it finances PhD research by Members in Accounting, Taxation, Auditing, Finance and related fields.

ICAN EMPLOYMENT BUREAU

The employment bureau assists members seeking employment or change of job.

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- **Peninsula Hotel, Lekki**
(35% off accommodation rack rates).
- **Angeles Hotel, Abuja**
(10% on weekdays and 30% on weekends off accommodation rack rates).
- **Excellence Hotel, Ikeja**
(15% off accommodation rack rates).
- **Richton Hotel, Abeokuta**
(30% off accommodation rack rates).
- **Premier Hotel, Ibadan**
(15% off accommodation rack rates).
- **Chida International, Abuja**
(30% off accommodation rack rates).
- **Rockview Hotel, Apapa**
(30% on room reservation, discount on group lunch or dinner for 50 people and above).
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Membership registration fee of N150,000 to be paid by ICAN family.
- **Membership of Beach Resort** for every ICAN family shall be for a fee of 250,000. Registered members of the beach resort shall enjoy 20% discount on weekends and 25% discount on week days on all their facilities.
- **Ocean Hotels and Suites**
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- **Sheraton Hotel, Lagos** (38% off accommodation rack rates) (Corporate) (exclusive of VAT and service charge).
- **Orchid Hotels, Lekki**
(25% off accommodation rack rates) (exclusive of 15% charges) (30% discount on lunch and dinner).

WHISTLEBLOWERS' FUND

The aim of the Fund, which has an initial take off capital of N50 million, is to protect ICAN members and the Public from any form of reprisals or victimisation when an alarm is raised on financial impropriety by public or private establishments, individuals or groups within the country.

The Fund is also to assist whistle blowers in litigation expenses reasonably incurred and to assist members of the Institute to discharge their professional duties without fear of being victimised.

Members are hereby encouraged to fulfil their membership obligation to the Institute to benefit from these incentives.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA

IN THE ACCOUNTANTS' DISCIPLINARY TRIBUNAL

HOLDEN AT VICTORIA ISLAND, LAGOS

CHARGE NO: ICAN/LEG/D.T/19350/2011

BETWEEN:-

ICANCOMPLAINANT/RESPONDENT

AND

SAMUEL LUCKY IROEGBU.....RESPONDENT/APPLICANT

RULING

The Respondent was charged before this Tribunal on a three (3) count charge as follows:

1ST COUNT:

STATEMENT OF OFFENCE:

PROFESSIONAL MISCONDUCT contrary to Paragraph 1.2.0 (a) of Professional Code of Conduct and Guide for Members and punishable under the said Rules and Section 12 (1) (a) of the Institute of Chartered Accountants of Nigeria Act Cap. 185 Laws of the Federation of Nigeria, 1990.

PARTICULARS OF OFFENCE:

That you SAMUEL LUCKY IROEGBU (M), sometime in June 2010 behaved without recourse to the code of conduct and standard of behavior required of members of the Institute when you left Millipat Nigeria Limited without accounting for huge sum of money left in your care and control thereby committing an offence punishable under Section 12 (1) (a) of the Institute of Chartered Accountants of Nigeria Act Cap. 185 Laws of the Federation of Nigeria, 1990.

2ND COUNT:

STATEMENT OF OFFENCE:

PROFESSIONAL MISCONDUCT contrary to Paragraph 1.2.0 (a) of Professional Conduct and Guide for Members and punishable under the said Rules and Section 12 (1) (a) of the Institute of Chartered Accountants of Nigeria Act Cap. 185 Laws of the Federation of Nigeria, 1990.

PARTICULARS OF OFFENCE:

That you SAMUEL LUCKY IROEGBU (M), sometime in June 2010 whilst in the employment of Millipat Nigeria Limited as Chief

Accountant acted without integrity when you colluded with the Company's Cashier to keep the Company's money in some personal safe in the office for personal use instead of depositing same in the Bank thereby committing an offence punishable under Section 12 (1) (a) of the Institute of Chartered Accountants of Nigeria Act Cap. 185 Laws of the Federation of Nigeria, 1990.

3RD COUNT:

STATEMENT OF OFFENCE:

PROFESSIONAL MISCONDUCT contrary to Paragraph 1.2.0 (a) of Professional Conduct and Guide for Members and punishable under the said Rules and Section 12 (1) (a) of the Institute of Chartered Accountants of Nigeria Act Cap. 185 Laws of the Federation of Nigeria, 1990.

PARTICULARS OF OFFENCE:

That you SAMUEL LUCKY IROEGBU (M), sometime in June 2010 whilst in the employment of Millipat Nigeria Limited acted without recourse to the ethics, duties and standards of behavior required of members of the Institute when you failed and neglected to account for huge sums of money left in your care and control thereby committing an offence punishable under Section 12 (1) (a) of the Institute of Chartered Accountants of Nigeria Act Cap. 185 Laws of the Federation of Nigeria, 1990.

BRIEF FACTS OF THE CASE

The Institute received a complaint dated July 23, 2010 from the Complainant, Millipat Nigeria Limited alleging that the Respondent, Mr. Samuel Iroegbu who accepted employment in the Company in April 2010, left suddenly on June 3, 2010 without accounting for the huge sums of money left in his care and under his control.

The Complainant claimed an audit exercise was carried out which report showed that the Respondent mismanaged money kept under his care. It was also stated that the Respondent granted personal loans and IOU to different people without any authorisation or proper documentation to back it up. The Complainant also alleged that the Respondent colluded with the cashier working under him to keep the Company's money which ought to have been deposited in the Bank in some personal safe in the office for personal use. The Complainant annexed a copy of the Respondent's letter of appointment, a copy of his membership certificate of the Institute of Chartered Accountants and a copy of his letter of acceptance of offer of employment.

The Respondent in his response stated, among others, that he voluntarily resigned his appointment with the Complainant on June 3, 2010. The Respondent denied the allegation that huge sum of money was left in his custody because he was not the Cashier and that he handed over balance of the money in his possession to the Cashier as detailed in his hand over note upon resignation. The Respondent also denied colluding with the Cashier to keep Company's money in some personal safe in the office for personal use neither did he grant any personal loan or I.O.U. The Respondent annexed to his response a copy of his resignation letter and a copy of his hand over note to the Cashier, amongst others.

Parties were invited to the Panel meeting of January 6, 2011. The parties honoured the invitation and reiterated their respective submissions. The Panel in its Concluding Report found the Respondent referable to the Tribunal for failing to account for huge sums of money left in his care and under his control.

At the trial, the Prosecution called one witness (PW1) through whom it tendered Exhibit 1 on the 4th day of March, 2013, which is the Investigating Panel Concluding Report and subsequently closed its case. Thereafter, the Respondent, through his Counsel, made a "No Case" submission. The Prosecution also filed their response to the "No Case" submission dated February 9, 2015.

In the No Case submission dated 6th January 2015, Counsel to the Respondent prayed for an order of the Honourable Tribunal declaring that the Respondent has no case to answer on the grounds that:

- a) The Prosecution has not discharged the burden of proof placed upon it.
- b) The Prosecution has failed to establish a prima facie case against the Respondent herein.
- c) The Prosecution's case is manifestly unreliable that this Tribunal could not reasonably find the Respondent liable based on it.

The Respondent raised four issues for determination:

- i) Whether the Prosecution has been able to discharge the burden of proof placed upon it by law?
- ii) Whether the charge sheet dated 27th January, 2012 discloses any offence for which the Respondent can be held liable?
- iii) Whether the totality of the Prosecution's evidence discloses any case against the Respondent?
- iv) Whether this Tribunal can rely on the Prosecution's insufficient evidence to convict the Respondent for the alleged offence?

This Tribunal is of the view that the first issue for determination,

as canvassed by the Respondent, that is, whether the Prosecution has been able to discharge the burden of proof placed upon it by law, is sufficient to answer the other three issues raised by the Respondent's Counsel and will therefore go ahead to consider it as the sole issue for determination.

On whether the Prosecution has been able to discharge the burden of proof placed upon it by law, the Respondent argued that the burden to prove the alleged offence for which an accused is charged lies on the Prosecutor and that it must be proved beyond reasonable doubt. See **Section 135 (1) and (2) of the Evidence Act, Cap E14, 2011**. The Respondent's Counsel equally cited the case of **NWAGA VS REGISTERED TRUSTEES RECREATION CLUB (2004) FWLLR (PT.190) 1360 at Ratio 2816** where the Court stated that the onus is on the Plaintiff to adduce credible evidence to prove his case before it becomes necessary for the Defendant to call evidence to rebut the Plaintiff's assertions.

The Respondent's Counsel argued that the Prosecutor has not proved his case neither has he provided evidence in support of the alleged offence to which the Respondent is charged before the Tribunal.

In his evidence-in-chief, PW1 stated that the Respondent could not account for the huge amount of money put in his care and also did not comply with the directive of the Investigating Panel, to go back to the Company so as to put his records in order. During cross-examination, PW1 said the Panel directed the Respondent to go and account for the money given to him and reconcile his record with the Company, which he failed to comply with and was referred to the Tribunal on that basis. The Respondent was, however, not charged before this Tribunal for disrespect to the Institute (for not complying with the Panel's directive) which would have amounted to professional misconduct contrary to **Paragraph 21.2.3 of Chapter 21 of the Professional Code of Conduct and Guide for Members of the Institute** and punishable under **Section 12 (1) (a) of the ICAN Act Cap 185 Laws of the Federation of Nigeria, 1990**.

In answering the sole issue for determination, this Tribunal will restrict itself to the three counts the Respondent is charged with vis-à-vis the evidence placed before it by the Prosecution.

The Respondent was charged with professional misconduct for failing to account for the "huge sum of money" in his care while leaving the employment of the Complainant and for colluding with the Cashier to keep Company's money in a personal safe in the office for personal use instead of depositing same in the bank. This Tribunal has painstakingly looked at all the evidence before it, the oral testimony, **Exhibit 1** which is the Panel's Concluding Report and all the annexure. **Annexure L1 to Exhibit 1** is the letter of complaint dated July 23, 2010, the Complainant stated that an audit was carried out when the Respondent left its employment and that the Audit Report revealed the Respondent mismanaged and could not account for various sums of money left in his care. The Audit Report referred to by the Complainant was never annexed to the complaint. It was neither tendered before the Panel meeting nor before this Tribunal. There is no evidence before this Tribunal as to the specific sum of money left in the Respondent's care, the amount not accounted for and the fact that the Respondent colluded with the Cashier to keep money in personal safe in the office for personal use.

The Prosecution did not call any witness from Millipat Nigeria

Limited, the Complainant, to give evidence before the Tribunal, which is fatal to this case.

Furthermore, **Annexure L5 to Exhibit 1** (the minutes of meeting of the Accountants' Investigating Panel) which ought to show the outcome of the investigation in the matter did not reveal any useful information other than the fact that "The Panel is to await the Complainant's response."

The Tribunal has reviewed the documentary evidence and submissions posited by Counsel to the Respondent and the Prosecutor. The evidence of PW1 tendered before the Tribunal does not disclose any legally admissible evidence linking the Respondent with the commission of the alleged offence of professional misconduct. The Tribunal is constrained to agree with the position of learned Counsel for the Respondent/Applicant that the prosecution has not discharged the burden of proof placed upon it by **Sections 131 (1) and 135 (1) & (2) of the Evidence Act, Cap E14, 2011**. The allegations raised against the Respondent are grave and the standard of proof must be beyond reasonable doubt. These allegations were never supported with any evidence linking him to the offence. This Tribunal cannot proceed to determine whether the Respondent's conduct is in breach of the Rules of Professional Conduct and Guide for Members without evidence to prove essential elements in the alleged offence.

Section 286 of the Criminal Procedure Act Cap. C41, 2004 provides that:

"If at the close of the evidence in support of the charge, it appears to the Court that a case is not made out against the Defendant sufficiently to require him to make a defence, the Court shall as to that particular charge, discharge him."

In the case of **OSSAI EMEDO & ORS VS. THE STATE** (2003) 1 WRN page 20, the Supreme Court held that the decision to uphold or reject a no case submission should depend upon whether the evidence is such that a reasonable Tribunal might convict and whether it would be safe to convict on the evidence as it stands.

It is the duty of this Tribunal to properly examine and evaluate the evidence before it. This Tribunal having done so, hereby concludes that no prima facie case has been made against the Respondent by the Prosecution and calling on the Respondent to open his defence in this regard is asking the Respondent to prove his innocence, which is contrary to the provision of **Section 36 (5) of the 1999 Constitution of the Federal Republic of Nigeria**. The sole issue for determination is hereby resolved in favour of the Respondent/Applicant.

The Tribunal therefore holds that the Respondent has no case to answer, as there is absolutely no evidence before this Tribunal to substantiate the allegations against him that will warrant the Respondent opening his defence. The Respondent's submission is, therefore, upheld.

Accordingly, the Respondent is hereby discharged.

This shall be the decision of this Tribunal and this shall be published in the Institute's journal.

Dated this 19th day of November 2015

Otunba Olufemi Deru, FCA
Chairman, Accountants' Disciplinary Tribunal



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Protection of Civilians and the Operating Environment of Nigeria

By ORSHI TERHEMBA EPHRAIM

In October 1999, the Security Council took its first active steps in the area of civilian protection, mandating the peacekeeping mission in Sierra Leone to “take the necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence.” The protection of civilians is now a recurrent theme in peacekeeping mandates with the changing nature of armed conflict in Nigeria and the world at large. This article seeks to address some of that deficit by providing a historical perspective as well as suggesting some practical options for consideration for those undertaking peacekeeping operation in Nigeria. This article is not the solution. It is designed to promote an awareness of the need to protect civilians and to suggest some ways to achieve that goal.

Introduction

In his foreword to Colonel Robert Manton, (2012) in Siobhan Wills’ book “*Protecting Civilians – The Obligations of Peacekeepers*,” Professor Guy S. Goodwin-Gill noted that “Too often, peacekeepers have not protected the vulnerable, but have been required to look the other way, or have done so for want of clear direction.” This was never more apparent than during the Rwandan genocide that saw over 800,000 people killed and then a year later, when genocide was again committed during the fall of Srebrenica after the UN Security Council adopted Resolution 819 declaring Srebrenica a “safe area.” These failures focused the attention of the UN Security Council, which held a thematic debate in February 1999 to consider violence against civilians caught in conflict. The Council issued a Presidential statement noting the need for a coordinated response to the issue and inviting the UN Secretary-General to recommend ways to improve the protection of civilians.

The Security Council considers that a comprehensive and coordinated approach by Member States and international organisations and agencies is required in order to address the problem of the protection of civilians in situations of armed conflicts. To this end, the Council requests the Secretary-General to submit a report containing concrete recommendations to the Council by September 1999 on ways the Council, acting within its sphere of responsibility, could improve the physical and legal protection of civilians in situations of armed conflict.

The report was to also identify contributions the Council could make towards effective implementation of existing humanitarian law. The report also examined whether there are any significant gaps in existing legal norms. Responding to the Security Council’s request, the Secretary-General issued his first report on the protection of civilians on September 9, 1999 in which he observed that “Rebel factions, opposition fighters and Government forces continue to target innocent civilians with alarming frequency.” The report went on to detail threats and violence against civilians where parties to conflict were failing

to comply with international law in an environment devoid of effective enforcement mechanisms, including: the deliberate targeting of non-combatants; forced displacements; infiltration of refugee and internally displaced persons (IDP) camps by combatants; the use of child soldiers; the effects of conflict on women; the denial of humanitarian access and humanitarian aid; and the humanitarian impact of sanctions. The Secretary-General went on to add:

"The plight of civilians is no longer something which can be neglected, or made secondary because it complicates political negotiations or interests. It is fundamental to the central mandate of the Organisation. The responsibility for the protection of civilians cannot be transferred to others. The United Nations is the only international organisation with the reach and authority to end these practices."

Together, the Security Council's Presidential Statement and the Secretary-General's Report proved to be a watershed moment in UN peacekeeping, establishing the link "...between systematic and widespread violations of the rights of civilians and breakdowns in international peace and security." It became clear that the nature of peacekeeping operations had changed and that the international community's expectations had risen.

The increased complexity of security situation in Nigeria is also due to the changed contemporary operating environment (COE) as the battlefield has moved into villages, towns, and cities with a plethora of actors, often intermingled. Rather than employing force alone to defeat an opponent, belligerents seek to achieve their aims by influencing the population. This can be more accurately described as war amongst the people according to Colonel Robert Manton (ret'd.) (2012). Since 1999 and till date, an increasing proportion of military operations have been mandated to protect civilians under imminent threat of physical violence in Nigeria. This was primarily in response to the activities of *Boko Haram* terrorist in the north-east part of the country that highlighted the failures of missions to provide security in complex situations such as bombing of the UN House, Police Headquarters, all in Abuja, 1 Division Nigeria Army, Kaduna and other key military installations in the north-east, and to protect civilians from mass atrocities such as the adoption of Chibok girls. Whether as the primary goal or a key operational objective, protecting civilians from systematic violence and mass atrocity creates unique considerations for military operations.

The Changing Nature of Conflict

In order to understand the implications of military operational mandated tasks, it is important to examine the changed operational environment in which peacekeeping operations are conducted in the post Cold War era. The contemporary operational environment (COE) is dynamic, complex, and turbulent, according to Col. Robert Manton (2012). Dynamic, in that security threats can arise unforeseen or with little warning; complex, in the forms threats can take and the array of state and non-state actors involved; and turbulent, in the frequency and violence of attacks, often against innocent civilians or soft targets. This represents a challenge to the concept of security that has traditionally been defined in geo-political terms and largely confined to relationships between

nation-states, with the state being the referent object. Opposing views have, over time, offered different interpretations. Terriff *et al* (1999) have tried to capture this debate in their publication; *Security Studies Today*, by posing two questions: First, who or what should be the focus of our interest in security? Should it be states, groups based on nationality or gender, or individuals? Second, who or what threatens security? Is it states and the policies of decision makers? Or are there functional threats, emanating from the environment, or non-state actors such as drug traffickers and transnational criminal organisations? Between 1900 and 2000 it has been estimated that 231 million civilian deaths resulted from conflict. As intimated by Terriff *et al*, (1999) the civilian population (individuals in Terriff's explanation) has assumed greater prominence in modern conflicts, particularly those of an intrastate nature where belligerents are often themselves civilians drawn from within the society affected by the conflict. This greater prominence is also due to the increased numbers of civilian casualties in the post-industrial era. More recently, a joint Humanitarian Policy Group (HPG)/International Committee of the Red Cross (ICRC) roundtable observed "In Libya and elsewhere, the theatre of conflict is changing, with belligerents increasingly undertaking military operations in densely populated urban areas, with resulting high levels of damage to civilian infrastructure."

While violence against civilians during conflict is not a new development, its significance has assumed far greater importance particularly with regard to how a conflict is perceived internationally. Globalisation and advances in technology have brought evidence of conflict, from even the remotest corners or villages in Nigeria, onto the international stage promoting awareness campaigns that are difficult for political leaders and international organisations such as the UN to ignore. Examples are adoption of Chibok girls and continued adoption of women and girls by *Boko Haram* terrorist in the North East part of Nigeria and the persistent attack on schools in villages by terrorist. Perceptions are invariably formed and can impact military operations in a number of ways.

In September 2014, the National Emergency Management Agency (NEMA) said it recorded 743,062 IDPs as a result of conflicts and national disasters in various parts of the country. The Director-General of NEMA, Muhammed Sani Sidi, has attributed the rise in disaster occurrences and the number of affected people in recent years to the impact of climate change, insurgency, communal conflicts and skirmishes between farmers and pastoralists. The United Nation has noted that Nigeria has 3.3 million displaced people due to violence and insurgent attacks in some parts of the country since 2010, one of the highest in the world. Current statistics from the National Commission for Refugees, Migrants and Internally Displaced Persons (NCFERM) has shown that Nigeria has recorded an increase in the number of persons dislodged from their homes due to insecurity in various part of the country in the last six months. Borno State alone has witnessed about 61,357 persons displaced into camps owing to insurgents in the state.

As a result, public opinion shapes national and international politics, affecting the policies and postures of actors whose decisions to support or oppose an operation can influence strategic outcomes. When military forces are deployed national and internationally, domestic audiences must remain convinced

of the merit of the operation despite the inevitable costs and casualties. Finally, the perceptions of civilians in the area of operations can both impact global public opinion, and have direct implications for military outcomes in certain circumstances.

Impact of the COE on Peacekeeping Operations

While the concept of peacekeeping operations, or protection of civilians for that matter, is not articulated in the Charter of the UN, the Charter's Preamble clearly indicates the organisation's intent "to address international peace and security concerns in order "to save succeeding generations from the scourge of war and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small." However, in its early years according to Col. Robert Manton (2012), cold war tensions often prevented consensus among some Security Council members about ways to address issues of international peace and security. To overcome the impasse, peacekeeping missions were authorised by the Security Council as "a new means of managing tensions between the major powers and the key focus was on constraining the political escalation of disputes into inter-state wars." As an alternative, this approach was relatively effective in its overall strategic intent but missions were often authorised without the necessary authority or resources to enforce their mandate because:

Peacekeepers were not expected to use force to secure compliance, partly because troops would only be deployed with the consent of the host state but also because it was assumed that their authority would be immediately respected on the basis that they were emissaries of the United Nations. A peacekeeping force was expected to achieve its goals 'not through military combat but by the simple fact of its presence.' In their infancy, peacekeeping missions were generally able to meet their obligations of keeping warring parties apart, and observing and reporting breaches of peace agreements, without necessarily solving the conflict or underlying dispute. Conflict resolution was most often addressed within the framework of Cold War alliances. The relative clarity offered by the Cold War operational environment led to some initial basic lessons being learned by the UN from its early peacekeeping missions.

With the end of the Cold War, the strategic context for UN peacekeeping dramatically changed, prompting the organisation to shift and expand its field operations from 'traditional' missions involving strictly military tasks, to complex 'multidimensional' enterprises designed to ensure the implementation of comprehensive peace agreements and assist in laying the foundations for sustainable peace. Today's peacekeepers undertake a wide variety of complex tasks, from helping to build sustainable institutions of governance, to human rights monitoring, to security sector reform, to the disarmament, demobilisation and reintegration of former combatants. The complexity and uncertainty brought by the end of the Cold War gradually made its way into the UN and its peacekeeping operations through Security Council mandates, which themselves became more complex. For example, Part A of UN Security Council Resolution 161 addressing the Congo in 1961 comprised five operative paragraphs. In contrast, UN Security Council Resolution

1925 establishing the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO) in May 2010 comprised 23 operative paragraphs, with a further 20 sub-paragraphs specifically addressing the protection of civilians and stabilisation and peace consolidation tasks. It was into this environment that the concept of protection of civilians was first specifically brought in 1999.

Why is the Protection of Civilians Important?

While civilian protection has normally been an implied goal of peacekeeping operations, the main emphasis, particularly prior to the deployment of UNAMSIL in 1999, has been political. Peacekeeping missions have traditionally been deployed in support of a ceasefire or a negotiated peace agreement. However, the expectation raised by the deployment of a peacekeeping operation goes to the very rationale behind the formation of the UN "to save succeeding generations from the scourge of war."

In the UN's independent study on protecting civilians in UN peacekeeping operations, according to Col. Robert Manton (2012), the authors, Victoria Holt, Glyn Taylor, and Max Kelly, identified three strategic imperatives underlining the importance of protection of civilians to the UN:

- ***The Legitimacy and Credibility of Peacekeeping Missions***

First, civilian security is critical to the legitimacy and credibility of peacekeeping missions. More fundamentally, a political peace cannot be founded on a peace that does not address civilian insecurity. A UN mission to support a political peace will lose credibility if it supports a political agreement that does not address such violence.

Legitimacy and credibility are two key components for any Nigeria national endeavor. Parties to any conflict or destabilising situation will be suspicious of each other and will be equally suspicious of the motives of any potential intermediary. Equally, those impacted by the conflict but not necessarily directly engaged (such as the civilian population) will view any intermediary with suspicion until their legitimacy and utility is established. From the Nigeria's perspective, this will impact any military operation ability to develop momentum or trust in the peace process or peace agreement. Additionally, the very deployment of military unit immediately raises the expectations of the local population which may not even be aware of, or understand, the nature of the conflict or dispute, much less any negotiated peace agreement, and will view the deployment of peacekeepers as being designed to provide protection for them. "The very presence of peacekeepers raises the expectation that if civilians are deliberately and brutally attacked, troops will do their best to stop it." Similarly, the deployment of a peacekeeping mission will raise international expectations.

- ***Mission Success and Exit***

Second, the protection of civilians is a critical component for a sustainable political peace. When the UN sends in peacekeepers, it makes the statement that an international effort will work towards building a stable peace in that region.

Peacekeeping missions risk failure if they are unable to

anticipate, mitigate, or halt extreme violence against the population. Successful missions are those that deal with the protection of civilians as an integrated part of their aims.

It is clear that peace without security is flawed as a population at risk of violence is unlikely to support efforts to re-establish justice, rule of law, or security sector reform by a government unable to provide basic protection for its citizens as seen in the Nigeria situation and the counter insurgency operation in recent times. Indeed, it could be argued that any peacekeeping mission deployed to an area of conflict in Nigeria could be simply given the task to protect civilians, as the provision of security is generally viewed as the number one task of national governments.

- ***Institutional Legitimacy of the United Nations***

Finally, the protection of civilians by peacekeeping missions is also central to the legitimacy and credibility of the United Nations. Peacekeeping missions are among the most high-profile manifestations of UN action and their conduct has implications for the organisation as a whole. The inability of military operation in Nigeria to address violence against civilians generate[s] questions among members of the public about the wisdom of investing resources in peacekeeping, and about the ability of the Nigerian Armed Forces and the Police to address the current proliferation of civil conflict.

The Charter of the UN is an aspirational document drafted in the aftermath of the Second World War which saw over 60 million deaths according to Col. Robert Manton (2012). As has already been stated in this article, the Preamble to the Charter, now endorsed by 193 Member States, details this aspiration in its opening lines “to save succeeding generations from the scourge of war and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” If there is a single issue that threatens this fundamental undertaking, and therefore the organisation as a whole, it is not difficult to argue it is the UN’s ability to protect civilians.

While the reasons given by Holt *et al* (2009) are compelling, they are developed from a predominantly organisational perspective and are focused on the issues of importance to the UN. The United Kingdom recently released its strategy on the protection of civilians and offered three other reasons why protection of civilians matters. It matters from a **moral perspective**. Everyone has the right not to be arbitrarily deprived of their life and the right not to be tortured. Protection of civilians in armed conflict matters from a **legal perspective**, because the UK has specific obligations concerning the protection of civilians in situations where it is involved in military action.

International Humanitarian Law (IHL) provides that civilians shall enjoy general protection from the effects of armed conflict, protects civilians from being the object of attack, and prohibits attacks that are indiscriminate. The UK is a strong supporter of the standards set out in international human rights and humanitarian law and of international criminal law tribunals, including the International Criminal Court. The protection of civilians in armed conflict can contribute towards **managing and reducing the direct impact of conflict** on affected populations. For example, it can help ensure that armed groups are less inclined to target civilians; that they are less likely to use civilian populations to

achieve their military objectives; and that civilians have access to humanitarian assistance.

The Report of the Panel on United Nations Peace Operations in 2000 added a further imperative to the international importance of protection of civilians: The Security Council has since established, in its resolution 1296 (2000), that the targeting of civilians in armed conflict and the denial of humanitarian access to civilian populations afflicted by war may themselves constitute threats to international peace and security and thus be triggers for Security Council action.

What is the Protection of Civilians?

The concept of the protection of civilians is a complex issue with humanitarian, political, legal, and military components. The complexity arises from the lack of agreement about what protection means among the various players. Indeed, the issue can be so complex that even within these thematic areas there may not be agreement, or confusion may exist regarding interpretation of a mandate to protect. As Col. Robert Manton, (2012) in Siobhan Wills has noted: The draft replacement for the UK’s current peace support operations doctrine notes that in assessing the force’s obligations towards the local community commanders must take into account humanitarian & human rights law treaty obligations, customary international law, domestic law of the Troop Contributing Nations (TCN) and host national law, and meeting the principles of the UN Charter. From a purely military perspective, protection does not easily translate into operational or tactical tasks. Military units are more familiar with task verbs such as attack, defend, seize, destroy, hold, etc.

Protection, as a task for military organisations, does not feature prominently in any military doctrine. This has posed difficulties and caused confusion for peacekeepers tasked to protect civilians as there is no frame of reference for what protection operations should be or how they should be conducted. Questions such as ‘protect who, from what, and where’ often do not have clear answers.

The complexity of the concept of protection of civilians according to Col. Robert Manton (2012) is well illustrated in the following Refugees International case study: Fatima’s 36 story is indicative of the many challenges faced by civilians in times of conflict: lack of security, a wide variety of threats both within the refugee camp (including by camp leaders and rebels) and externally (a hostile local population), and difficulties providing even the most basic of human needs; food, water, shelter. The type of response required to address particular protection challenges further complicates the complexity of the issue. With potential legal, political, physical, moral, and humanitarian aspects to address, it is clear that no single component of a peacekeeping mission has the capability to successfully tackle the myriad of challenges the protection dilemma poses.

Accordingly, the military component of a peacekeeping operation does not have the sole responsibility, authority, or capability to address the protection of civilians agenda that may be present in a mission’s area of responsibility. Col. Robert Manton (2012) in Victoria Holt and Tobias Berkman identified six concepts of civilian protection with military implications: First, protecting civilians can be conceived of as a legal obligation of military actors

to abide by international humanitarian and human rights law during the conduct of war. Second, protection may be seen as the natural outcome of traditional war fighting through the defeat of a defined enemy. Third, it may be viewed as a job for humanitarian organisations aided through the provision of broad security and “humanitarian space” by military forces. Fourth, it may be considered the result of the operational design of assistance by relief agencies to reduce the vulnerability of civilians to physical risk. Fifth, it may be viewed as a set of tasks for those deployed in peace operations or other interventions, potentially involving the use of force to deter or respond to belligerent attacks on vulnerable populations. Sixth, and finally, protecting civilians may be the primary mission goal, where the operation is designed specifically to halt mass killing in the immediate term as seeing in the mandate of the counter insurgency operation currently ongoing in the North East part of Nigeria.

Notwithstanding the complexity of the protection of civilians agenda, the Security Council has specifically mandated peacekeeping missions to protect civilians since 1999 with the expectation that the task passes the military ‘feasible, acceptable and suitable’ test and that missions so mandated will address the issue as best as they can. Indeed, the Brahimi Report highlighted and supported the mandating of protection tasks stating: the desire on the part of the Secretary-General to extend additional protection to civilians in armed conflicts and the actions of the Security Council to give United Nations peacekeepers explicit authority to protect civilians in conflict situations are positive developments. Indeed, peacekeepers, troops or police, who witness violence against civilians should be presumed to be authorised to stop it, within their means, in support of basic United Nations principles and, as stated in the report of the Independent Inquiry on Rwanda, consistent with “the perception and the expectation of protection created by [an operation’s] very presence.”

As a result, the protection of civilians presents a unique conundrum for military planners and operators, humanitarian experts, legal representatives, and any other agencies involved in providing protection for non-combatants during conflict. The task is relatively undefined with various interpretations being adopted by different agencies. From a military perspective, there is no doctrinal guidance to assist operational design. While the Security Council has continued to mandate the protection of civilians it has not detailed its expectations or success criteria. This all leads to something of a dilemma for peacekeepers deployed to a mission tasked to protect civilians. This dilemma was expressed in the Brahimi Report that supported the mandating of protection tasks but offered the following cautionary note. “...the Panel is concerned about the credibility and achievability of a blanket mandate in this area.” There are hundreds of thousands of civilians in current United Nations mission areas exposed to potential risk of violence, and United Nations forces currently deployed could not protect more than a small fraction of them even if directed to do so. Promising to extend such protection establishes a very high threshold of expectation. The potentially large mismatch between desired objective and resources available to meet it raises the prospect of continuing disappointment with United Nations follow-through in this area.

Back in Nigeria, the lack of guidance and clarity led to an

operational gap that saw the protection of civilians either ignored especially in the north-east part of Nigeria or only partially addressed in others. This is being addressed by the UN Secretariat, according to Col. Robert Manton (2012), with the recent release of Specialised Training Materials (STM) on the protection of civilians. Drawing on the Department of Peacekeeping Operations (DPKO) / Department of Field Support (DFS) Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations, the STM describes the three-tiered approach to protecting civilians that has been adopted by the UN. The operational concept is organised around a three tiered approach to protecting civilians:

Tier 1: Protection through political process.

Tier 2: Providing protection from physical violence.

Tier 3: Establishing a protective environment.

Each peacekeeping operation is deployed in a unique political and operational setting, has a distinct mandate and capabilities, and engages with varied and diverse protection challenges. As such, each mission that has been charged with protection responsibilities will design and tailor its own comprehensive mission-wide strategy, in consultation with its key partners, and with respect to existing agency mandates on the ground.

While the operational concept in Nigeria offers some clarity, it is clear that both the Ministry of Defence and the Defence Headquarters are acutely aware of the complexity of the protection of civilian’s issue, understanding that every situation is unique with different stakeholders, both internally and externally. The operational concept adopts an umbrella approach providing mission leadership with three focus areas to conduct protection activities without offering a constraining definition of the concept, thus allowing military missions some freedom of action to address the unique nature of their operational environment. Despite this attempt to clarify the protection of civilians agenda, it remains a source of discussion and concern and will continue to do so until guidance is released outlining the expectations and what success may look like.

Threats and Challenges

While the added complexity of a fluid operational environment has further complicated the protection of civilians agenda, the fundamental question that must be asked by practitioners is who must be protected and from what. According to Col. Robert Manton (2012), a protection assessment does not start with an abstract analysis of rights, but with the commonsense question ‘Who needs protection from what?’ It is clearly not possible, and there should be no expectation, for peacekeeping missions to protect everyone from everything all the time. However, addressing this fundamental question will help to simplify the issue by distinguishing non-combatant from combatant, therefore addressing a major flaw of the Armed Forces and other security agencies in Nigeria. No failure did more to damage the standing and credibility of military operation since 2009 as a result of terrorist activities than its challenges to distinguish victim from aggressor.

It is also important to understand the nature of threats in a particular mission area. The 1998 Report of the UN Secretary-

General into the causes of conflict in Africa detailed an array of sources of conflict that support the notion of the increased complexity of the Contemporary Operating Environment post the Cold War, and its potential effect on the execution of protection of civilians mandates. While focused on Africa, the causes of conflict mentioned in the report can be applied more broadly to the global environment. Historical legacies arising from colonialist activities prior to and during the Cold War; internal factors such as tensions arising from the multi-ethnic nature of many countries; external factors such as competition for resources and conflict within neighbouring states; and economic motives arising from conflict situations are all symptomatic of the turbulent nature of the global security environment.

Threats to civilians in areas of armed conflict can be categorised as either direct or indirect. Direct threats include violent assault against individuals, rape, forced displacement, and forced recruitment. Indirect threats include denial of humanitarian assistance, hunger, disease, and loss of livelihood. These lists are far from exhaustive and it is not possible to highlight every threat faced by non-combatants in areas of armed conflict. Many of the threats to civilians are country specific. That is, the circumstances or culture of a particular country may give rise to unique threats to its population.

✓ **Violence Against Civilians**

As a direct threat, violence against civilians has become less the result of collateral damage and more the outcome of direct targeting of civilians for political, criminal, or economic aims, as evident in the Chibok school girls adoption. The changing nature of conflict, with less-capable, irregular forces becoming more prevalent, has seen unarmed civilians move to centre stage as targets for parties to a conflict to achieve a favourable outcome. In some instances, state and government agencies have deliberately targeted civilians and civilian infrastructure where it is assessed that non-combatants are sympathetic to non-government belligerent aims. Both state and non-state actors have also targeted civilians where there is a desire to remove an ethnic group from society.

In many of today's armed conflicts; Nigeria and the *Boko Haram* terrorists as case study, civilian casualties and the destruction of civilian infrastructure are not simply byproducts of war, but the consequence of the deliberate targeting of non-combatants. The violence is frequently perpetrated by non-state actors, including irregular forces and privately financed militias. In many conflicts, belligerents target civilians in order to expel or eradicate segments of the population, or for the purpose of hastening military surrender.

Civilians have also been targeted as the result of the difficulty discriminating between combatant and non-combatant in contemporary armed conflicts. Today's operating environment and changed nature of conflict in the north-east part of Nigeria, focusing as it does on 'war amongst the people', has seen the battlefield move to villages, towns, and cities, with irregular forces hiding amongst the population. While international human rights law places obligations on parties to a conflict to protect civilians, these are often overlooked in favour of achieving political or strategic aims and objectives.

International humanitarian law sets standards for parties

to an armed conflict on the treatment of civilians and other protected persons. Virtually all Member States including Nigeria have ratified the Geneva Conventions of 1949, with a majority having signed or ratified the 1977 Protocols. There are also legal norms in international human rights law from which there can be no derogation or suspension in time of public emergency. However, the failure of parties to armed conflict to comply with the law on the one hand, and the lack of effective enforcement mechanisms on the other, have led to a situation in which civilians suffer disproportionately, and which the international community appears powerless to prevent. One feature of internal conflicts today is that the dividing line between civilians and combatants is frequently blurred. Combatants often live or seek shelter in villages, and sometimes use innocent civilians, even children, as human shields. In some cases, communities provide logistic support to armed groups, either voluntarily or under compulsion which is the new method adopted by *Boko Haram* terrorist, and become targeted as a consequence.

✓ **Forced Relocation**

Forced relocation represents a significant direct threat to civilians in areas of armed conflict. In 2010, there were an estimated 27.5 million people internally displaced by armed conflict and 15.4 million refugees worldwide according to Refugees International. The National Emergency Management Agency (NEMA) says the number of Internally Displaced Persons (IDPs) in the Nigeria as at January 15, 2015 is 981,416. Out of this number, 107,997 IDPs were in camps in Adamawa, Yobe, Gombe, Bauchi and Taraba States, while 802,148 were being hosted by communities. Given a further breakdown, 66,087 of the number were displaced by natural disasters, while 868,235 were affected by the ongoing insurgency in the north-east. NEMA also disclosed that there are 15,001 internally displaced Nigerians in Cameroun, including those affected by the internal crisis in Central African Republic in 2014. NEMA added that Chad host 2,377 of the IDPs. On the Baga massacre in Borno, NEMA said 3,200 persons who were displaced from the community as a result of insurgency were being camped in a secure facility, the Teacher's Village Camp in Maiduguri. It is the obligation of NEMA and its partners, including the International Committee of the Red Cross (ICRC) to provide critical aid to the IDPs and refugees camp, however the security situation of these areas including the IDPs and refugees camp must by determined. International law provides protection for displaced persons although these protective measures are often disregarded or ignored.

Forced displacement takes place both across and within national boundaries. People forced to leave their country of nationality or permanent residence should enjoy the protection of international refugee law, yet many do not. Internally displaced persons are in principle covered by the laws of their own country as well as by international humanitarian law applicable to victims of non-governmental conflicts and international human rights law. Nevertheless, guarantees found in international human rights and humanitarian laws are often disregarded by the country of origin or by the Government of the receiving State. Non-state actors are often unwilling or unable to meet the protection needs of displaced persons and refugees. While the physical aspect of forced relocations is a major issue, the flow-on effects, or indirect

threats, are also significant and offer their own set of challenges.

✓ **Gender Based Violence, Sexual Exploitation, and Abuse**

The scope of gender based violence and sexual exploitation is broad. It encompasses direct threats such as rape (including rape as a weapon of war), physical abuse, and sexual slavery, as well as indirect threats such as HIV/AIDS infection, psychological damage, child and forced prostitution, and forced pregnancy. Women and girls are particularly vulnerable during periods of armed conflict due to the absence of males, often leaving women as the head of the home with limited protection.

While men account for the largest numbers of combatants, women and children are disproportionately represented among civilians affected by conflict. This usually leads to dramatic increases in the number of children and women heads of households, leading to abrupt changes in their roles and increases in their workloads. The breakdown of the social fabric and the disintegration of families as a result of terrorist activities and other communal conflict in Nigeria often leave women and girls especially vulnerable to gender-based violence and sexual exploitation, including rape and forced prostitution.

✓ **Children in Armed Conflict**

Children are arguably the most vulnerable of all non-combatants in areas of armed conflict. The most direct threat posed to children is forced recruitment and employment as child soldiers. The *Boko Haram* terrorist group has device this means as noted by a 13 year old girl who accused her father of giving her to *Boko Haram* group that ordered her to explode a suicide bomb in Kano City on December 12, 2014. This practice is not new and is often the result of threats against families, forcing them to allow children to be taken and used in this manner; or the result of severe poverty, when children are traded to armed groups for economic reasons. This article noted that the use of children as instruments of violence is of increasing concern, particularly where children were being used to carry or wear explosives in Nigeria today. The article advocates the need to provide protected and functional education for Nigerian children to ensure their opportunities for a better future were not undermined.

✓ **Denial of Humanitarian Assistance**

Access to humanitarian aid for food, shelter, and medical assistance is often the only option for civilians caught in armed conflict situations. Denial of this resource is often used as an indirect method to target civilians to either coerce them to side with those denying them access or to ensure compliance by making a population totally reliant on those denying access for basic lifesaving resources. "In the absence of any international presence, civilians affected by the conflicts in these areas are at the mercy of the warring parties and are dependent on them for the supplies they need." There are also further indirect threats resulting from the denial of humanitarian assistance. Denial of basic needs (food, water, and shelter), disease, and deprivation of livelihood all pose threats to non-combatants.

✓ **Threats to Refugees and IDP Camps**

Refugee and IDP camps are established to provide security

and assistance for those displaced by armed conflict. It is not uncommon practice for these camps to be infiltrated by combatants who seek to use the environment as a means to access supplies, medical treatment, or as a recruiting base.

Despite the promise of temporary refuge, camps do not always guarantee civilians protection. Failure to maintain the purely civilian and humanitarian character of camps means that civilians can find themselves living side by side with combatants or other armed elements. In such circumstances, relief supplies may be diverted to members of warring factions who do not qualify for international protection or assistance. Refugee camps often become militarised due to their proximity to borders. As a result, they become susceptible to cross border attacks and reprisals.

Protection of Civilians and the Responsibility to Protect

Any discussion of threats to civilians in areas of armed conflict needs to take account of the linkages between the 'traditional' protection of civilians concept and the concept of the responsibility to protect. These concepts are linked in that the normative framework underpinning them is the same; the protection of civilians. Both norms are governed by the same obligations under international law, both have a role for the UN Security Council, and neither "...can be reduced to the use of military measures."

According to Col. Robert Manton (2012), both the protection of civilians' agenda and R2P (Responsibility to Protect) share the same normative foundation: the protection of individuals. They share the same legal underpinning, both requiring states to uphold specific obligations that they have under international humanitarian law, refugee law, and human rights law. Both the broader protection of civilians' agenda and R2P specify a role for the Security Council to adopt measures to protect human beings from suffering, although neither agenda is limited to action by the Council but involves a wide range of players; governments, organised armed groups, UN institutions, NGOs and other non-state actors.

While the two norms are linked, there are some important differences. The Security Council has mandated peacekeeping missions to protect civilians as part of a broader political goal, most commonly to provide stabilisation and security and to support a peace process. A peacekeeping mission tasked to protect civilians deploys under the basic principles outlined in the UN's 'Capstone Doctrine': consent of the parties, impartiality, and the non-use of force except in self-defence or defence of the mandate. The responsibility to protect norm does not rely on consent and is of an interventionist nature where the sole purpose is to save lives. The responsibility to protect is also limited in scope to address specific threats: ethnic cleansing, genocide, crimes against humanity, and war crimes.

A military intervention such as the counter insurgency operation in north-east of Nigeria designed expressly to protect civilians from mass killing is fundamentally different from a peace operation mandated to protect civilians from much lesser risks. Such peace operations typically balance their civilian protection tasks with numerous other goals, such as establishing long-term peace and security. The former type of mission which form the bases of the current counter insurgency in the north-east

of Nigeria crosses the sovereignty threshold identified by the Responsibility to Protect, where a desire for consent, impartiality, and limited use of force take a back seat to the immediate goal of saving lives. Such missions are unlikely to be led by the United Nations. The Secretary-General's recent report to the Security Council on the protection of civilians highlights some additional differences worthy of consideration and I quote:

"I am concerned about the continuing and inaccurate conflation of the concepts of the protection of civilians and the Responsibility to Protect. While the two concepts share some common elements, particularly with regard to prevention and support to national authorities in discharging their responsibilities towards civilians, there are fundamental differences. First, the protection of civilians is a legal concept based on international humanitarian, human rights and refugee law, while the responsibility to protect is a political concept, set out in the 2005 World Summit Outcome (*see General Assembly resolution 60/1*). Second, there are important differences in their scope. The protection of civilians relates to violations of international humanitarian and human rights law in situations of armed conflict. The responsibility to protect is limited to violations that constitute war crimes or crimes against humanity or that would be considered acts of genocide or ethnic cleansing. Crimes against humanity, genocide and ethnic cleansing may occur in situations that do not meet the threshold of armed conflict. I urge the Security Council and Member States to be mindful of these distinctions."

Conclusion

As a military task, "protection" does not easily translate into operational activities. The absence of doctrine, globally, means that, military missions mandated to protect civilians undertake this task in something of a vacuum having to rely on the experience of those deployed to execute the task. Additionally, the environments into which military troops and peacekeepers deploy are far more complex and involve a much broader range of actors and parties to the conflicts, many of whom feel no obligation to abide by international norms. This article has attempted to provide some ideas to enable the development of an appropriate protection framework, regardless of the local situation. Also, in order to successfully address the breadth of challenges civilians face in conflict situations, and to maximise the capabilities and resources available to military missions and peacekeepers, all stakeholders must be given the opportunity to contribute. There are no right and wrong ways to execute this complex task. What is important is that the deployed organisation does not lose sight of the focus of the operation "the vulnerable communities they were deployed to protect."

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Long Term Investment Opportunities In Nigeria

By **BADE OYEDEPO**

INTRODUCTION

As part of the efforts to provide the enabling environment for the growth and development of the Nation, the Federal Government of Nigeria has developed a package of incentives for various sectors of the economy. These incentives would assist in reviving the economy, accelerate growth and development and mitigate the extent of poverty in the country. The incentives cover all the various investment opportunities available to both the public and private sectors. It is also meant to attract the inflow of Foreign Direct Investment (FDI) to stimulate the growth of domestic production capacity.

The Nigeria government has accepted the private sector as a key agent of growth and a major creator of wealth while on the other hand, the government's major responsibility is to provide the enabling environment for the private investors to operate. In this regard, the existing laws which had hitherto hindered private sector investments have been amended or repealed. In addition, a national council on privatisation has been established to oversee an orderly investment by private operators in some vital areas of the economy such as mining, transport, electricity, telecommunications, petroleum and gas, etc.

The Nigeria government's policy of economic deregulation and liberalisation has opened up new windows of opportunities to all potential investors. Some of the incentives include, among others:

- ▶ Strengthening of the Nigeria Investments Promotion Council (NIPC) to serve as a one-stop office for clearing of the investments into the country.
- ▶ The tariff structure is being reformed with a view of boosting local production.
- ▶ Government has introduced a new visa policy to enable genuine foreign investors to procure entry visas to Nigeria within 48 hours of submission of required documentation through the diplomatic or consular missions abroad.

- ▶ Existing "expatriate quota" requirement, for foreign nationals working in Nigeria is in the process of being replaced with "work permit" which will be administered by the Nigeria Investment Promotion Council (NIPC).

SECTORAL INCENTIVES

Some of the sectors where there are ample investment opportunities in Nigeria include:

1) Industrial Sector

- ▶ Fiscal measures have been provided to serve as allowable deductions in the determination of taxable income of manufacturing companies including adequate allowances.
- ▶ Granting of Pioneer status, which is a concession to new innovations in economically disadvantaged areas.
- ▶ Providing a tax holiday period of five to seven years. But the industry must be considered to be beneficial to the country's economy and in the overall interest of the public.
- ▶ Companies that are involved in local raw materials development; local value added labour intensive processing; export oriented activities; in-plant training are also qualified for additional concessions.

a) Research and Development (R&D):

Up to 120% of expenses on R&D are tax deductible provided that such activities are carried out in Nigeria and are connected with business to which allowances are granted. The result of such research could be patented and protected in accordance with internationally accepted industrial property and copyright laws.

b) Local Raw Material Utilisation:

30% tax concession for five years to industries that attains minimum local raw materials utilisation as follows:-

- Agro 80%
- Agro allied 70%

- Engineering 65%
- Chemical 60%
- Petro-chemical 70%

c) Labour Intensive Mode of Production:

15% tax concession for five years. The rate is graduated in such a way that an industry employing one thousand persons or more will enjoy 15% tax concession while an industry employing one hundred people will enjoy only 6%, while those employing two hundred will enjoy 7%, and so on.

d) Local Value Added

10% tax concession for five years. This applies essentially to engineering industries, where some finished imported products serve as inputs. This is aimed at encouraging local fabrication rather than the mere assembly of completely knocked down parts. In plant training attracts a 2% tax concession for five years, of the cost of the facilities for training. Export oriented industries enjoys a 10% tax concession for five years. This concession will apply to industries that export not less than 6% of their products.

“Government has introduced a new visa policy to enable genuine foreign investors to procure entry visas to Nigeria within 48 hours of submission of required documentation through the diplomatic or consular missions abroad”

Infrastructure attracts 20% of the cost of providing basic infrastructure such as roads, water, electricity, etc. Where they do not exist, it is tax deductible once and for all.

e) Investment in Economically Disadvantaged Areas

100% tax holiday for seven years and additional 5% depreciation over and above the initial capital depreciation.

f) Abolition of Excise Duty

All excise duties were abolished with effect from the 1st of January, 1999.

g) Import Duty Rebate

A 25% import duty rebate was introduced in 1995 to ameliorate the adverse effect of inflation and to ensure an increase in capacity utilisation in the manufacturing sector. Investors are however, advised to ascertain the current operative figures at the time of making an investment, because these concessions have undergone some amendments in the past few years.

h) Re-investment Allowance

This incentive is given to manufacturing companies that incur capital expenditure for purposes of approved expansion of production capacity, modernisation of production facilities,

diversifications into related products. It is aimed at encouraging reinvestment of profits.

i) Investment Tax Allowance

Under this scheme, a company would enjoy generous tax allowance in respect of qualifying capital expenditure incurred within five years from the date of the approval of the project.

Dividends derived from manufacturing companies in petrochemical and liquefied natural gas sub-sector is tax exempt.

Companies with turnover of less than N1 million are taxed at a low rate of 20% for the first five years of operation if they are into manufacturing.

Dividend from companies in manufacturing sector with turnover of less than N100 million is tax-free for the first five years of their operation.

j) Investment Guarantees/Effective Protection

Transferability of funds under Section 24 of NIPC Act provides that a foreign investor in an enterprise shall be guaranteed unconditional transferability of funds through an authorised dealer in freely convertible currency of:

- ▶ Dividends or profit (net of taxes) attributable to the investment;
- ▶ Payments in respect of loan servicing where a foreign loan has been obtained;
- ▶ Remittance of proceeds (net of all taxes) and other obligations in the event of a sale or liquidation of the enterprise; or
- ▶ Any interest attributable to the investment.

k) Guarantees Against Expropriation

By the provision of Section 25 of the same NIPC Act, no enterprise shall be nationalised or expropriated by any government of the federation, unless the acquisition is in the national interest or for public purpose; and no person who owns either wholly or in part, the capital of any enterprise shall be compelled by law to surrender his interest in the capital to any other person.

These can only be done under a law that makes provision for:

- Payments of fair and adequate compensation; and
- Right of access to the courts for the determination of the investor's interest or right and the amount of compensation to which he is entitled.

In addition to all these safeguards, the Nigerian government is prepared to enter into investment protection agreement with foreign enterprises wishing to invest in Nigeria.

L) Access to Land

Any company incorporated in Nigeria is allowed to have access to land rights for the purpose of its activity in any state in the country, it is however, a requirement that industrial companies comply with regulations on use of land for industrial purposes and with environmental regulations. Land lease is usually for a term of 99 years unless the company stipulates a shorter duration.

2) Oil & Gas Sector

a) Gas Production Phase

The following fiscal incentives have been approved by the government in the gas production phase:

- ▶ Tax rate, under Petroleum Profit Tax (ppt) Act, to be at the

same rate as the company income tax which is currently at 30%;

- ▶ Capital allowance at the rate of 20% per annum in the first 4 years, 19% in the 5th year and the remaining 1% in the books;
- ▶ Investment tax credit at the current rate of 5%;
- ▶ Royalty at the rate of 7% on shore and 5% offshore.

b) Gas Transmission and Distribution

- ▶ Capital allowance as in production phase;
- ▶ Tax rate as in production phase;
- ▶ Tax holiday under pioneer status.

c) Liquefied Natural Gas (LNG) Projects

- ▶ Applicable tax rate under ppt is 45%;
- ▶ Capital allowance is 33% per annum under-straight-line basis in the first three years with 1 % remaining in the books;
- ▶ Investment tax credit of 10%;
- ▶ Royalty of 7% on shore, 5% offshore tax deductible.

d) Gas Exploitation (Upstream Operations)

- ▶ All investments necessary to separate oil from gas out of the reserves into suitable products are considered part of the oil field development;
- ▶ Capital investment facilities to deliver associated gas in usable form at utilisation or transfer points will be treated for fiscal purposes as part of the capital investment for oil development;
- ▶ Capital allowances, operating expenses and basis for assessment will be subjected to the provisions of the PPT Act and the revised Memorandum of Understanding (MoU).

e) Gas Utilisation (Downstream Operations)

Incentives for encouragement of exploitation and utilisation of associated gas for commercial purpose include:

- ▶ An initial tax free period of three years renewable for an additional two years;
- ▶ 15% investment capital allowance which shall not reduce the value of the asset;
- ▶ All fiscal incentives under the gas utilisation down-stream operations in 1997 are to be extended to industrial projects that uses gas in power plants, gas to liquid plants, fertiliser plants and gas distribution/transmission plants;
- ▶ The initial tax holiday is to extend from three to five years;
- ▶ Gas is transferred at 0% PPT and 0% royalty;
- ▶ Investment capital allowance is increased from 5% to 15%;
- ▶ Interest on loans for gas projects is to be tax deductible provided that prior approval was obtained from the federal ministry of finance before taking the loan;
- ▶ All dividends distributed during the tax holiday shall not be taxed.

f) Oil & Gas Free Zone

Incentives and fiscal measures approved by the government that favour and encourage large investment in the region include:

- ▶ No personal income tax;

“ 25% of income derived from tourists by hotels in convertible currencies are tax-exempt provided such income is put in a reserve fund to be utilised within 5 years for expansion or the construction of new hotels, conference centres, etc that are useful for tourism development ”

- ▶ 100% repatriation of capital & profit;
- ▶ No foreign exchange regulation;
- ▶ No pre-shipment inspection for goods imported into the free zone;
- ▶ No expatriate quota;
- ▶ Initial tax holidays period has been extended from 3 to 5 years and renewable for another 2 years;
- ▶ Investment capital allowance has been increased from 5% to 15%;
- ▶ All dividends distributed during the tax holiday shall be tax-free, etc.

g) Petroleum Industry

Very similar generous incentives package was granted the joint venture system and is contained in the MOU signed with oil companies.

h) Solid Minerals

Nigeria is richly endowed with a variety of solid minerals of various categories ranging from precious metals, stones and industrial. Minerals such as barytes, gypsum, kaolin and marble.

The ministry of solid minerals has worked out a package of attractive incentives for potential investors in the solid minerals sector, including:

- ▶ 3 to 5 years tax holiday;
- ▶ Deferred royalty payments depending on the magnitude of the investment and strategic nature of the project;
- ▶ Possible capitalisation of expenditure on exploration and surveys;
- ▶ Provision of 100% foreign ownership of mining companies or concerns;
- ▶ In addition to roll-over relief under the Capital Gains Tax (CGT), companies replacing their plants and machinery are to enjoy a once-and-for-all 95% capital allowance in the first year with 5% retention value until the asset is disposed of; etc.

3) Agriculture Sector

Without prejudice to government's deregulation of the financial sector, banks have been enjoined to recognise the differences in the gestation periods within each category of agricultural loans ranging from 6 months to 10 years, for crops, livestock, fisheries, forestry and wild life.

In addition, the following incentives are also available:

- Companies in the agro-allied business do not have their capital allowance restricted to 60% but graduated in full – 100%;
- Agro-allied plant and equipment enjoy enhanced capital allowances of up to 50%.

4) Tourism Sector

The tourism sector was accorded preferred sector status in 1991. This makes it qualify for such incentives as tax holidays, longer years of moratorium and import duty exemption on tourism related equipment.

State governments are prepared to facilitate acquisition of land through the issuance of certificate of occupancy for the purpose of tourism development.

25% of income derived from tourists by hotels in convertible currencies are tax-exempt provided such income is put in a reserve fund to be utilised within 5 years for expansion or the construction of new hotels, conference centres, etc that are useful for tourism development.

5) Energy Sector

All the area of investment in this sector are considered to be pioneer product or industry. As a result, there is a tax holiday of 5 to 7 years for investments in the sector. There has been a deregulation of this sector resulting in the emergence of Independent Power Producers (IPP) that have started to operate in Nigeria.

6) Telecommunications Sector

Government provides non-fiscal incentives to private investors in addition to a tariff structure that ensures that investors recover their investment over a reasonable period of time, bearing in mind the need for differential tariffs between urban and rural areas.

Rebate and tax relief are provided for the local manufacture of telecommunications equipment and provision of telecommunication services. The telecommunication sector is rapidly being deregulated and privatised. This has led to the emergence of many operators of the GSM such as MTN, Globacom, and Vodacom, including M-TEL as mobile phone service providers in Nigeria. Teledensity has now expanded, as a result, in leaps and bounds.

7) Tax Incentives for Other Lines of Trade

- a) Companies profits in respect of goods exported from Nigeria are exempt from tax provided the proceeds are repatriated to Nigeria and used exclusively for the purchase of raw materials, plants equipment and spare parts.
- b) Profits of companies, whose supplies are exclusive inputs to the manufacturing of products for exports, are excluded from tax.
- c) All new industrial undertakings including foreign companies and individuals operating in an Export Processing Zone

(EPZ), are allowed full tax holidays for three consecutive years.

- d) As a means of encouraging industrial technology, companies and other organisations that engage in research and development activities for commercialisation are to enjoy 20% investment tax credit on their qualifying expenditure.
- e) All companies engaged wholly in the fabrication of tools, spare parts and simple machinery for local consumption and export are to enjoy 25% investment tax credit on their qualifying capital expenditure while any tax payer who purchases locally manufactured plants and machinery are similarly entitled to 15% investment tax credit on such fixed assets bought for use

8) Export Incentives for Non-Oil Sector

- a) Export proceeds can be retained in foreign currency in a domiciliary account with any authorised bank in Nigeria.
- b) A special export development fund has been set up by the government to provide financial assistance to private sector exporting companies to cover a part of their initial expenses in some export promotion activities, including training courses, symposia, seminars and workshops, export market research, advertising and publicity campaigns in foreign markets, trade missions, etc.

- c) There is also an export adjustment fund scheme which serves as supplementary export subsidy to compensate exporters

for the high cost of local production arising mainly from infrastructural deficiencies and other negative factors beyond the control of the exporter.

d) Finally, Nigerian government established in 1991, an Export Processing Zone (EPZ), which allows interested parties to set up industries and businesses within demarcated zones, with the objective of exporting the goods and services manufactured or produced within the zones.

Calabar in Cross River State has been designated as the primary EPZ territory in Nigeria. Incentives within the territory include, tax holiday relief; unrestricted remittance of profits and dividends

earned by foreign investors; no import or export licenses are required; up to 100% foreign ownership of enterprises; sale of up to 25% of production is permitted in domestic market; etc,

- e) All exports under the Nigerian Value Added Tax (VAT) system are zero-rated and dividends received from investment in export-oriented businesses are to be free of tax.

Finally, It is therefore imperative for the members of the public to take advantage of all these long term investment opportunities to develop our dear Country Nigeria.

★ Mr. Bade Oyedepo is a member of the Institute.

All new industrial undertakings including foreign companies and individuals operating in an Export Processing Zone (EPZ), are allowed full tax holidays for three consecutive years

Effect of Intellectual Capital on Return on Capital Employed

(An Overview of Nigerian Insurance Firms)

By NGOZI BEN ANUONYE

The purpose of this study is to evaluate the effect of ROCE in the value creation of insurance firms in Nigeria using the ex-post facto research design. The target population consisted of 150 workers in the 3 strategic departments of human resources, accounts and marketing of 18 insurance companies using the purposive sampling technique. 150 questionnaires were distributed to respondents and a response rate of 74% was recorded. Face validity, content validity and pilot test were used to validate the instruments. The Cronbach's Alpha reliability test gave a result of ($r=0.806$) and ($r=0.800$) respectively. Regression was used for data analyses at 5% level of significance. Results obtained from the primary data revealed that structural capital had significant positive effect on ROCE at ($P<0.05$). Aggregated P value for f-statistic was significant on ROCE at ($F=.000<.05$). Secondary data analysis revealed that human capital was negatively significant on ROCE at ($P<0.05$).

Keywords: Intellectual capital, financial performance, ROCE, value added intellectual coefficient.

INTRODUCTION

Return on Capital Employed (ROCE) shows the result of a firm's earnings as a proportion of the amount of fund invested into its operations. In other words, it is the reward for an investment (Pandey, 2010). The financial performance of a firm as calculated through its ROCE will enable it gain competitive advantage from the measurement of intellectual capital.

2.0 REVIEW OF RELEVANT LITERATURE

2.1 Conceptual Framework of Intellectual Capital

Intellectual capital is one of the most important resources that can positively impact on a firm's profitability and efficiency.

Flamholtz (1999) reiterates that the world economy has shifted from the industrial in which plant and equipment were the core assets to the post-industrial in which intellectual capital is the core asset. While most firms in the industrial era by definition relied on manufacturing capabilities, companies in the post-industrial era now rely almost completely on knowledge and information for survival and profit.

The basis for the above argument is corroborated by de Pablos (2003) and Bontis (2004) who argue that a company will gain a competitive advantage if intellectual capital is effectively harnessed in the organisation. The drivers of this intellectual capital advantage (Pulic, 2004) may be found in all employees' as well as the organisation's ability to create value under a market

assessment. In other words, intellectual capital (Nielsen, Bukh, Mouritsen, Johansen & Gormsen, 2006) is represented by the company's stock, such as skilled employees, knowledge and management philosophy. The study and the measurement of intellectual capital on the profitability of insurance firms is a key challenge to managers towards the fulfilment of their stewardship obligation to investors who rely on the financial information of such firms in evaluating the performance of the sector in Nigeria. Most importantly, such a study is expected to help the industry to formulate and implement strategies that will help develop its intellectual capital and guide them to benchmark themselves in order to improve their value creation as argued by Goh (2005). For example, the inclusion of intellectual capital contributions in the financial reports of early organisations such as R.G. Barry Corporation and Skandia Insurance Corporation (Edvinsson & Malone, 1997) helped to pioneer and increase awareness in the concept of intellectual capital reporting. Intellectual capital can be categorised into:

2.1.1 Human Capital (HC): This is the value of all the workers in the organisation with all the attendant rewards attached to their utilisation (Verguwen & Alem, 2005). These capabilities are peculiar to the workers (even though the organisation invests in them) because they go away with them whenever they leave the organisation (Roos & Roos, 1997).

Human capital is the generic term for the competences, skills, trainings and motivation of the employees. The human capital of the organisation comprises of all the qualities and professional skills the worker brings into the organisation. HC is owned by the worker and leaves along with him whenever he leaves the organisation. Human capital is the totality of all remunerations and rewards paid to the worker. Human capital (Namvar, Fathian, Gholamin, & Akhavan, 2011) is at the heart of intellectual capital measurement.

2.1.2 Structural Capital (SC): Structural capital is the supportive infrastructure that enables human capital to function in an organisation. Structural capital is owned by an organisation and remains with it even when the worker leaves the organisation. Structural capital consists of trademarks, patents, formulas, management style, company reputation, image, corporate culture, networking, mission and vision. It is the difference between non-thinking and thinking resources that use very different management methods such as culture, organisational processes, technology, absorptive capacity and information systems to achieve corporate goals (Namvar, Fathian, Gholamin, & Akhavan, 2011).

This form of capital is of strategic importance in the corporate planning and growth of any organisation. Structural capital refers to all structures deployed by the organisation to drive the business processes. This form of capital can be evaluated on how employees, organisational units and different hierarchy levels of workers exchange information and co-operate together on organisational projects. Corporate culture, which is enhanced by structural capital, comprises of all values and norms, knowledge transfer and the working manner which is peculiar to every business organisation. It also includes compliance to rules and the ability of the workers to handle failures corporately when

they eventually occur. Structural capital is calculated as the difference between value added and human capital.

2.1.3 Relational Capital

Relational capital is the inclination that the customers have over the goods and services of an organisation. It is the preference and loyalty that customers have over a company's brand over other products and services. Relational capital is the relationship which an organisation has with external groups and persons over time. This will include trade relationships with past, present and potential customers, suppliers, partners and the public at large. To maintain a high degree of relational capital, the organisation must exhibit a high sense of salesmanship and marketability with its sales team and open access to customers (Soumet, 2007).

2.1.4 Conceptual Framework of Return on Capital Employed (ROCE)

Return on capital employed is a measure of profitability which represents the earnings relative to the financial and physical capital invested in the organisation. It is calculated as Profit before tax (PBT) divided by Capital employed. Return on capital employed (de Pablos, 2003 & Bontis, 2004; Pandey, 2010; Niresh, 2012) can also be referred to as Return on Assets (ROA). Thus, in calculating the ROCE, two key measurement factors stand out, namely:

(i) **Profit Before Tax (PBT).** This is the net profit of the organisation before interest and tax. It may also be referred to as earnings before interest and tax (EBIT). In effect, this is the return that the company has made in relation to its operations for the period under review.

(ii) **Capital Employed (CE)** represents the amount of funds used by the company for the generation of wealth. In practical terms, capital employed should be equivalent to the net assets or total assets less current liabilities.

2.2 Theoretical Framework of Intellectual Capital

Over the years, a number of theories, models and definitions have been formulated through which the present day intellectual capital measurement is derived. Some of these include:

- a) The Balanced Score Card (BSC)
- b) Skandia's IC Navigator
- c) Economic Value Added (EVA)
- d) Market Value Added (MVA)
- e) Tobin's Q Ratio
- f) Intellectual Capital Services' IC-Index
- g) The Technology Broker's IC Audit
- h) Sveiby's Intangible Asset Monitor (IAM)
- i) Real Option Theory (ROT)
- (j) Citation-weighted Patents
- (k) Value Added Intellectual Coefficient (VAIC™).

2.3 Empirical Framework

Despite the prominence given to the efforts of the workforce in the annual financial statements of companies in Nigeria for example, the measurement of intellectual capital is still very shallow. It is true that human capital is acknowledged by the directors of companies, especially in the Chairman's Statement in the Annual Reports, yet such knowledge are not measured or

articulated in the companies' financial reports. This means that the value of firms in Nigeria is under-reported.

In a study on the impact of investment in human resource training and development on employee effectiveness in Nigerian banks, Yahaya (2006) reiterates that an often repeated statement made by directors and chairmen of corporate organisations in their annual reports is "our main asset is our workers". Yet, this 'main asset' is neither measured nor included in the financial statements of the enterprise.

Using expenditures on the employees (salaries, wages and training costs) as well as other intrinsic values, there is a strong indication that human efforts in the organisation can actually be measured. In private organisations, intellectual capital measurement may be difficult because data for its measurement might be scanty or non-existent. In such types of organisations, very few employers of labour acknowledge the value of their employees. They fail to appreciate the fact that even physical and financial capital (capital employed) can only be productive through human efforts and manipulations. Beyond the inability of firms to measure intellectual capital, the general trend has been for management to recommend the layoff of the workforce as a way of reorganisational modification during periods of low profitability. This action on the workforce through layoffs may be counter-productive.

Since the measurement of intellectual capital is the process of evaluating human efforts in an analytical form, Flamholtz (1999) argues that neither financial nor managerial accounting has responded to current changes as evidenced in post-industrial economies. He realises that the accounting paradigm and related measurement technology have not been re-conceptualised to account for this economic transformation. He maintains that the continued use of measurement tools that are no longer well suited to the current era, have therefore resulted in anomalies (Flamholtz, 1999).

In May, 1995, Skandia Corporation, the top insurance and finance enterprise in Sweden, issued the world's first public Intellectual Capital Annual report. This marked a shift from the previous annual reports which were only compiled for reference purposes in companies' reports. The result of this report was the formation of the Skandia Intellectual Capital Navigator, which not only measured intellectual capital, but also provided a framework for classification and a standard for the measurement of intellectual capital.

Since organisations acquire intellectual capital to generate future revenues, it is therefore most appropriate that such human resources be considered when valuing a company by capitalising instead of expensing such expenditures in the current period. The significance of this argument is that intellectual capital should be treated like the other assets. Since all assets are reported on the statement of finance positions, these also should be reported along with physical assets.

The Value Added Intellectual Coefficient, VAIC (Baldini, Liberatore & Ridi 2011) approach is used to determine a firm's efficiency in using intellectual capital resources. VAIC, as measured by Ante Pulic (Pulic, 1998, 2000, 2004) has been criticised as an invalid measure of intellectual capital (Aho, Stahle & Stahle, 2011). Their argument is premised on the fact that VAIC indicates the efficiency of the company's labour and capital

investments and has nothing to do with intellectual capital. They criticised the use of the measurement variables as being overlapping and that the results obtained from the calculations do not support the hypothesis which states that VAIC correlates with a company's stock market value.

According to Singh (2009) human resource costs can be categorised into Capital and Revenue Expenditure. He stated that Capital expenditure would include acquisition, development, retention, update, hiring, recruitment and training costs. Whereas Revenue expenditure would include wages, salaries, bonus, commission, perquisites, allowances, short-term motivation, efficiency and maintenance costs. He concludes that the value of human resources can be calculated either on the basis of Cost of Production approach or the Capitalised Earnings Approach. He affirmed that capital expenditures are written off over the expected life of the employees, while revenue expenditures are written off or charged into the company's income statement of the current year. Rowbottom (1998) in his thesis on intangible asset accounting and accounting policy selection in the football industry in the United Kingdom corroborates this view, thus, that intellectual expenditure can be segregated into capital and revenue forms. This segregation may not be clear-cut principally because of the problem of demarcation between the various costs.

In a study on organisational knowledge management as a strategy for Nigerian insurance companies, Epetimehin & Ekundayo (2011) observe that intellectual capital, a vital corporate asset, will melt away unless companies do something to stop the brain drain and to retain critical knowledge. They opined that the survival of insurance companies in Nigeria is dependent upon the resolve of the workforce to eliminate unethical practices which are resorted to in avoiding liability under insurance policies. This assertion was collaborated by Alaka, Tijani & Abass (2011) when they identified the impact of strategic planning on the performance of the Nigerian insurance industry.

In another study which evaluated the role of intellectual capital in the university efficiency system at Azad Islamic University in Iran; using synthetic model of genetic algorithm and decision trees, Modaresi, Rezaei & Javid (2012) observe that the development of intellectual capital affects university efficiency significantly.

Yahaya (2006) using the quantitative measure published by the Institute of Intellectual Capital Research and approved by the Saratoga Institute measured the impact of investment in human training and development on employees' effectiveness in Nigerian banks between 2001 and 2005. Her study confirmed that an assessment of the human resource effectiveness of 3 commercial banks (Zenith, First and Union Bank) showed that Zenith Bank with the best human resource management and accounting practice performed better than First Bank and Union Bank.

Asadi (2012) investigates the relationship between intellectual capital and value creation criteria of 59 companies listed in Tehran Stock Exchange for a period of five years. The results indicate that there are significant relationships between the independent variables of intellectual capital and dependent variables of economic value added, cash value added, market

Table 4.1:
ROCE Model on Primary Data

Variable	Coefficient	Std. Error	t-statistic	P value (Sig.)
Constant	10.472	2.273	4.607	.000
HC	.039	.061	.637	.525
SC	.617	.111	5.566	.000
RC	.130	.059	2.187	.031
R	.617			
R ²	.381			
Adj. R ²	.363			
F-stat.	21.499			
P value (F-stat)	.000			

Significant at $\alpha = 0.05$
Source: Researcher's regression output (2015)

value added, and refined economic value added. Henry (2013), in a qualitative investigation of intellectual capital in the engineering industry (with respect to SMEs) in the UK within the context of a recession, conducts ten interviews on the companies chosen. He concludes that there is a greater need to address the practical implications and barriers to the implementation of intellectual capital management through the Innovative Potential, Collaborative Potential and Operating Efficiency sectors in the industry. In addition, Corcoles (2013) analyses the importance of intellectual capital management as instruments to face the new challenges in European universities by providing assistance in the process of developing their ability to identify, measure and manage their intangible assets. The study concludes that a basis for the understanding of how European universities measure and manage their intellectual capital can now be assessed through the definition and diffusion of the organisation's strategic objectives by identifying the critical intangibles related to these objectives and the causal network of relationship among them.

2.5 Empirical Framework of Performance

Financial performance in relation to intellectual capital connotes notable actions or achievements which accrue to an enterprise as a result of intellectual capital measurement and application. Using a sample of 32 audited financial statements of quoted companies in Nigeria, Uadiale & Uwuigbe (2011) examine the impact of intellectual capital components on business performance measured with Return on Equity (ROE) and Return on Assets (ROA). Their results show that intellectual capital has a positive and significant relationship with the performance of business organisations in Nigeria. Salman & Mahamad (2012) review some of the available measurement tools that can be applied to evaluate the knowledge-based assets using management model and market model in the Malaysian economy. They found and agreed that the motive behind the development of intellectual capital measurement is

to allow managers to evaluate their investments in intellectual capital assets as well as their contribution to the company's performance. They discovered that most organisations have only a vague understanding of how much they have invested in intellectual capital let alone what they receive from those investments. Kamath, (2007) suggests a positive relationship between intellectual capital and performance. In a study of 98 Indian banks, the result of his study showed that foreign banks outperformed the local banks because they made the best use of their intellectual capital in their operations. Also, El-Bannany (2008) in his investigation of the determinants of intellectual capital performance in UK banks over the period 1999-2005, asserts that the standard variables of bank profitability and bank risk is important in the determination of banks' performance. The results also show that investment in information technology (IT) systems, bank efficiency, barriers to entry and efficiency of investment in intellectual capital variables, which have not been considered in previous studies, have a significant impact on intellectual capital performance. According to the result of a study conducted by Kujansivu (2006) on 20,000 Finnish companies between 2001 and 2003 using VAIC, companies in the electricity, gas and water supply sector were most efficient in utilising their intellectual capital. The study provides an empirical evidence of the implementation of intellectual capital management tools for the enhancement of performance in Finnish companies. The VAIC method used in the study was based on the premise that value creation is derived from physical and intellectual capital. Rafiei, Ghaffari & Parsapur (2012) investigate the role of intellectual capital in the improvement of the performance and social and technological economy of Iranian hospitals and concluded that there are some correlations between intellectual capital components and performance. In the empirical study of Mohammad & Ismail (2009) on the efficiency of intellectual capital (human capital, structural capital and capital employed) in the performance of 18 listed financial companies in Malaysia also assert that the banking sector relied more on intellectual capital followed by insurance companies and brokerage firms. The findings of the study are consistent with that of Goh (2005), who examines the intellectual capital performance of commercial banks in Malaysia for the period 2001 to 2003. In a related study of the effect of performance on listed Jordanian insurance companies, Almajali, Alamro & El-Soub (2012) found out that leverage, liquidity, size and management competence indices have a positive statistical effect on the financial performance of those insurance companies and suggested the need to have highly qualified employees in the top managerial staff. Confirming the positive relationship between intellectual capital and firm performance, Wang (2011)

in his study of Taiwanese firms in 2001, using customer capital, human resource capital and structural capital as independent variables over return on asset, market price to book value and total productivity found that the relationship between structural capital and firm performance was insignificant. But the paper concludes that the firms achieve positive performance when they emphasise on human training, customer related management and research and development. Abdulai, Kwon & Moon (2012) investigate factors instrumental to the success of software industries in India, Ireland and Israel in relation to the performance of software firms in West Africa. Focusing on the influence of top management commitment and transformational leadership on intellectual capital and its relationship with firms' performance, they proposed a second level model on the software industry. To validate this model, they conducted a field survey involving 83 software firms in the West African region. The result of their investigation showed a significant relationship between the elements of intellectual capital and competitive capabilities of firms and between competitive capabilities and firm performance. Their study showed among other factors, that the intellectual capital of these nations is said to have contributed significantly to their success in the software industry. From their study, there is therefore a general consensus that management of intellectual capital constitutes the most important source of competitive advantage for organisations.

3.0 METHODOLOGY

Ex-post facto research design was adopted in the selection of data modes. Primary and secondary data were employed. A targeted sample size of 150 workers was used. The target population consisted of 150 workers in the 3 strategic departments of human resources, accounts and marketing of the 18 insurance companies using the purposive sampling technique. 150 questionnaires were distributed to respondents and a response rate of 74% was recorded. Face validity, content validity and pilot tests were used to validate the instruments. The Cronbach's Alpha reliability test gave a result of (r=0.806) and (r=0.800). Regression was used for data analyses at 5% levels of significance.

4.0 DATA PRESENTATION, ANALYSES AND DISCUSSION OF FINDINGS

A test of the effect of intellectual capital on ROCE indicated a mixed relationship. Whereas the result of the primary data questionnaire showed that structural and relational capital were statistically significant on ROCE, it was found that human capital was statistically insignificant on ROCE. The null hypothesis was therefore rejected in respect of structural and relational capital and accepted in the case of human capital. However, the combined effect of the predictor variables was significant at (F=.000<.05)

Table 4.2:
ROCE Model on Secondary Data

Variable	Coefficient	Std. Error	t-statistic	P value (Sig.)
Constant	-.305	.224	1.363	.194
HC	.014	.006	2.458	.028
SC	.011	.027	.395	.698
RC	.014	.008	.1.901	.078
R	.635			
R ²	.403			
Adj. R ²	.275			
F-stat.	3.153			
P value (F-stat)	.058			

Significant at α = 0.05
Source: Researcher's regression output (2015)

and also rejected. This means that the respondents agreed that structural and relational capital can positively affect ROCE. This view was supported by Soumet, (2007); Namvar, Fathian, Gholamin, & Akhavan, (2011). They averred that structural capital as a management method had the capacity to achieve corporate goals or positive financial performances. This position was further supported by a study on the effect of intellectual capital on organisational competitive advantage in Jordanian commercial banks in the Irbid district carried out by Bataineh & Zoabi in 2011 where they found that there was a moderate significant and positive influence on relational capital.

Unlike the primary data result, the secondary data result showed that structural capital and relational capital were statistically insignificant on ROCE and significant on human capital. The hypothesis was therefore accepted in respect of structural and relational capital and rejected in respect of human capital. The hypothesis was also accepted in respect of the aggregate effect of HC, SC and RC on ROCE at (F=.058). This implied that structural capital and relational capital did not positively affect return on capital employed. However, with respect to human capital, the result indicated that human capital had a statistically significant impact on return on capital employed. The hypothesis was therefore rejected in respect of human capital. Supporting the outcome of this finding, Rehman, Ilyas & Rehman (2011) found that human capital efficiency (HCE) played a significant role in IC performance of both life and non-life insurance sectors of Pakistan.

On a study carried out on the impact of intellectual capital on the performance of 14 listed banks in China, Zou & Huan (2011) opined that Human Capital Efficiency (HCE) had a positive correlation with TE.

5.0 SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

A test of the effect of intellectual capital on ROCE through the hypothesis indicated a mixed relationship between intellectual capital and financial performance. Whereas the result of

the primary data questionnaire showed that structural and relational capital were statistically significant on ROCE, it was found that human capital was statistically insignificant on ROCE. The hypothesis was therefore rejected in respect of structural and relational capital and accepted in the case of human capital. However, the combined effect of the predictor variables was significant at ($F=0.000<0.05$) and was also rejected.

The study concluded that human capital (HC), structural capital (SC) and relational capital (RC) each had a statistical weak relationship with return on capital employed (ROCE) of insurance companies in Nigeria. It was therefore recommended that a standard on intellectual capital accounting should be issued by the International Financial Reporting Committee (IFRC) which will enable firms to measure and record their intellectual capital values in their financial reports, especially in the statement of financial position.

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Appendix

Key: 1 = Strongly Disagree, 2 = Disagree, 3 = Fairly Disagree, 4 = Fairly Agree, 5 = Agree, 6 = Strongly Agree

No.	Questions for Your Consideration	1	2	3	4	5	6
1.	Return on Capital Employed (ROCE) The value of a firm's investment is increased by the skilful use of resources by the workforce.						
2.	Investors' capital contributions to the business must be adequately employed by the workers for profit maximisation.						
3.	The proportion of a workers' input has no direct bearing on the capital employed in the organisation.						
4.	Investment in intellectual capital in my firm is significantly influenced by its profitability.						
5.	Investors' appraisals of workers' past financial performances are used as yardsticks for their future investments.						
6.	High return on capital employed is an evidence of the financial prudence of managers in my organisation.						

Source: Researcher's field survey (2015)

Achieving Graceful Retirement

By NWADEI IFEANYI

INTRODUCTION

Life after retirement is a period where one does not engage in active income generation. Individuals make efforts to plan for the period during their active lives in service. This period is not expected to meet anyone by surprise because whatever has a beginning must have an end. Where there is commencement of work, there would be disengagement or retirement from such work. Therefore, retirement should not be shrouded by uncertainties. Planning for life after retirement should commence when one engages in active income generation through careful selection of retirement investment and diversification of sources of income. Whatever retirements options that may be adopted by an individual must be efficiently managed to enable them meet the needs of life after retirement.

RETIREMENT

Retirement is a period where one stops work due to age or incapacitation. This happens whether one is employed by self or another. However, when one is employed, the retirement age is fixed by the employer. On the other hand individuals fix their retirement period when self employed. This would also depend on personal savings of the self employed and the responsibilities such a person carries. Most times, people that are self employed hardly pay attention to retirement until ill health forces them to do so. However, some scholars argue that one may not retire if one's source(s) of income are built around one's hobbies. In this case, retirement would be like committing suicide.

When one commences work, one would ordinarily understand

“The uncertainties of life after retirement have made people in public private sector to alter their ages. They hope to work until their children are fully employed. Unfortunately, this may not always happen in societies where unemployment rate is very high”

that one would disengage at a future time if one does not die in service. Incidentally, nobody plans to die in service but very few people plan for retirement life after retirement. It may not be the intention of those that failed to plan for retirement to suffer at old age. They may have left their life after retirement to chance either because of lack of knowledge of what to do or in hope that their employers may have sufficiently planned for them. Some of them also hope that their children would care for them during this period hence they invest in their children.

The uncertainties of life after retirement have made people in public private sector to alter their ages. They hope to work until their children are fully employed. Unfortunately, this may not always happen in societies where unemployment rate is very high. Sometimes, even when all one's children are employed, the income may not be sufficient to care for their individual families let alone caring for their aged parents.

In societies where people pay less attention to self employment, the public sector usually becomes the major employer of labour. The economy would usually fail to sufficiently care for the aged or the retired because of the huge labour force it carries. In some countries, the aged are cared for through the public social welfare in addition to retirement package provided by the employer. The private sector also contributes to this social welfare scheme by contributing a small percentage of their profit in addition to taxation as may be required by relevant legislations or in fulfillment of social responsibility. However, there may not be any legislation that may force employers of labour to make whatever elaborate provision for retirement that can fully

care for the need of retired persons. It becomes imperative for individuals to consciously and actively plan for life after retirement to avoid acute suffering.

Retirement ought to be a period of rest after active work life. For the rest of life to be meaningful, it is expected that one's standard of living should not be less than what it was during the active years. The standard of living would only remain the same when there are alternative sources of income that serve as replacement for the employment income. These alternative sources of income should not require one to engage in active work otherwise, it becomes a change of job.

FEAR OF UNCERTAINTIES IN RETIREMENT

The uncertainties that shroud retirement period make people that did not plan for it to approach it with fear. This fear could make one to alter age, steal or engage in other forms of vices that are hoped to reduce the period or provide security. Unfortunately, people that approach retirement in this manner end up finding themselves in such situations that they tried to avoid.

When one considers the impact of alteration of age on the individual and on the society, one would observe that it neither does the individual any good nor the society. The individual lives in pretence of being young but may not be as productive as required for the age declared. The low productivity that results from this act slows down economic growth of the society. Therefore, unemployment rate may continue to be on the rise in the society.

Stealing for the purpose of providing for security of retirement palaver would be like robbing Peter to pay Paul. That is, the thief steals from other people in order to make provision for self thereby reducing the people's ability to secure their future or from the public treasury thereby tampering on the welfare of other people in the society. The act of stealing enables one to transfer private insecurity to the public. This would aggravate the problems of the society making the illegal provision for personal welfare unachievable.

In corrupt societies, some public officers and political office holders indulge in age alteration, stealing or other vices to ensure that they retain same standard of living on leaving office. The smart ones find loopholes in the law to protect them from being prosecuted for their crimes in office. This may work especially when such individuals are able to steal sufficient money to delay justice. This could happen in any society irrespective of public perception or corruption index.

Experience shows that investment derived from illegally acquired income never endures the test of time. In some climes, people would attribute this to spiritual retaliation for engaging in crime while others may attribute it to reaping what one sows. Irrespective of whatever one's belief is, there are relevant skills for generating income or managing businesses. Stolen fund used for investment would be lost because the relevant skills were not applied in generating such income. The money would fail to reproduce itself.

On the contrary, the pursuit of retirement planning through

investment from one's hard earned resources would endure the test of time even when no startup capital is available. The reason for this is simple. The investment emerges from learning process and hard work. Points of failure can easily be detected and on time. Lessons are learned for the benefit of growing the investment. Therefore, it would be wise for people to adopt retirement plan that is underpinned on learning and skill development without neglecting integrity. This would prove more sustainable.

CONFUSION ON WHEN TO START RETIREMENT PLANNING

Most times, people get confused as to when they actually commenced working. The confusion could be as a result of personal definition of what gainful employment is or what constitutes income from employment. The desire to work in certain institutions could also contribute to the understanding of commencement of work. When such desires take time to materialise, the period of waiting may be considered as period of unemployment even when income is being earned by such individual from other sources.

On examination of two architects, in response to the question, "have you gotten a job now?" One said he studied a course that could enable him work on his own hence he was not willing to submit application for employment to anyone. On further enquiry, he argued that he has been earning money from architectural

practice from his days as a student. For him, he commenced working during his undergraduate days. On the other hand, the other architect did not earn much money to qualify private engagement as employment and therefore, decided to take up a teaching job. For the second architect, the acceptance of teaching job marked the commencement of gainful employment.

The difference in attitude in individuals as to what qualifies as gainful employment is what determines when they begin to plan for retirement. This is because it would appear that such person may not begin to plan for retirement when still in search of the dream job. People of this category

would be willing to alter their age to enable them fit into their dream jobs which may or may not come. The alteration in age gives them the feeling that there is still time for planning for retirement. However, the alteration in age would not rejuvenate the strength of their physical body; therefore, any job engagement outside the expected retirement age would ordinarily exact pressure on the body creating further health related problems other than the economic problems at hand.

Experience has shown that people that commence retirement planning from the earliest time of earning income whether periodic or constant are better protected economically on retirement. They look forward to period of retirement as a time for rest and signing signatures that earns income. At this time, people work for them. On the other hand, those that wait for future stable period of dream jobs or convenient time for planning for retirement may not always get it right because such planning are usually done in haste.

Many wise people have done huge investment with small or unsteady income while others of same category wasted their money and time while waiting for big permanent jobs. Investments

Failure in planning for retirement could be caused by several factors such as lack of adequate information on the right investment for one, lack of skill, perceived absence of investment capital, procrastination or fear of being swindled by support staff

of this nature could become permanent employment and source of employment for self and others. With vigorous planning by one, casual work or additional source of income could blossom into huge retirement package. Good succession planning would make one and one's descendants to continue to earn income from the investment after one's retirement or demise.

PLANNING FOR RETIREMENT

Planning is usually done for future events that one is certain would occur. This would enable one to manage the events when they occur. In situations where planning is absent, the expected future event which is retirement, would meet one unprepared. Cases abound where very successful business men, professionals, footballers and others retire to life of uncertainty because they failed to plan for their retirements.

Many people are not certain when to begin the planning for retirement. This is because they see retirement as what would happen in a distant future. Unfortunately, the distant future moves faster than they could imagine. It would imply that a prudent person would commence planning for retirement from the very time that one earns the first income. The planning may include but not limited to saving a certain percentage of income, invest in additional sources of income that could be self sustaining with functional management team such as farming, trading outfit or other projects that could generate income for one on retirement, etc.

However, failure in planning for retirement could be caused by several factors such as lack of adequate information on the right investment for one, lack of skill, perceived absence of investment capital, procrastination or fear of being swindled by support staff. These matters that pose challenge to planning for retirement could be taken care of by exposing oneself to the right information. This would happen through studying literature in areas of interest and seeking advice from experts.

In planning for retirement, one must take cognisance of the size of family, age range of dependent children and one's relationship with kinsmen. This is very important in societies where social ties exist amongst distance relatives. Focusing on self alone or the immediate family would imply denial of one's responsibilities to distance relatives which may attract social sanctions or labelling. Whatever decision one takes would imply a choice that has its possible consequences.

Planning for retirement should involve all members of the family for married people especially, when some children of the family would still depend on the parents during the period of retirement. This is particularly important because it would require their cooperation to sustain whatever effort at improving their lot during the parent's retirement period. It is also important because whatever investment in this direction would be bequeathed to the children should be what they would be willing to sustain out of personal volition not by compulsion.

LATE RETIREMENT PLANNING AND LOSS OF JOB

Late retirement planning could be caused by lack of information or procrastination. However, this affects those in the employment of other people. One that is self employed may not lose job in the form of sack but could suffer from business failure. Incidentally, business failure or one's inability to contribute to organisational

success is what causes loss of job. There would be no organisation that would sack someone that contributes significantly to its income unless such organisation ceases to exist.

When one fails to make planning for retirement early, such a person could be caught up by loss of job. This particularly, may affect those in organised private sector where profitability determines job security. However, early planning for retirement such as making investment could be a source of income on occasion of sudden loss of job. Such investment may not have grown big since it may be at startup period. But failure to have started something would be more disastrous when getting another job delays.

Retirement planning in the form of investment started very early as one begins to earn income would contribute additional income to anyone that takes the initiative. This means that sudden loss of job would not imply total stoppage of income. Total stoppage of income in the absence of additional income from investment would make anyone that suddenly loses his/her job to deplete savings made. The rate at which such savings would be spent may be very fast because it could take a while for the individual that loses job to adjust to the new realities of life. This could be the reason why those that suddenly lose jobs may also suddenly become poor overnight.

In this case of loss of job, making savings may not be sufficient as a hedge for the palaver unlike retirement. Loss of job may not be planned for like retirement but adequate and early planning for the latter could cushion the effect of the former whenever it occurs. Loss of job could be predicted but not long enough for anyone to make sufficient provision for it. It would therefore become expedient for one to make investment for retirement early enough bearing in mind that loss of job could occur at any time. Even when loss of job does not occur, one may have nothing to lose for making early plan for retirement by making investment.

CHOICE OF RETIREMENT INVESTMENT

The choice of retirement investment may not apply to self employed. However, such person may have to structure the business to be able to sufficiently provide for one during retirement. In some cases, the reward for investment as applicable to private persons may not be adequate for the present needs let alone providing for the future. For such situations, one may have to consider investing in other sources of income to boost present standard of living and on retirement.

Every employee is expected to make a choice for retirement investment. The making of this choice must start from the day that one begins to earn income. The choice has to be made in the direction of converting leisure to income generation. This may also apply for self employed in making life investments choices. It means that if one spends leisure in watching football, such pleasure should be converted to money making in a way that income can be earned during this period of relaxation.

Sometimes, determining how income could be earned from leisure could be tasking. It would appear easier for one to consider earning income from talent. Incidentally, talent display may be usually done at leisure. For instance, nobody would know that one sings if such talent is not displayed to people's admiration at relaxation periods. It means that talent could be a pointer to earning income at leisure. When one makes such a choice, it may be very unlikely that one may fully retire because investment of

this nature means life to the investor.

Some persons think in their mind that they may have made the choice of retirement investment without any physical representation of their thoughts. Having the thought of retirement investment is not sufficient for any individual to nurture. A choice of retirement should include actively bringing to being of such investment. Everyone around should be able to know that such investment exists and that it is actively providing income for one. When this is not the case, such person is living in procrastination hoping to do it in future which never comes to pass.

There are occasions where people need to consult professionals on how to make retirement investments. Doing this would enable one get exposed to other possibilities that would boost present income as well as the future. Professionals may also have to consult their colleagues that are more vast in the areas of interest. Taking this path would minimise loss of income and investment.

OPTIONS FOR FUNDING RETIREMENT

Retirement being a period where one is not actively generating income requires a level of fund for sustenance. Where there is a shortfall for maintaining the desired expected standard of living, one is said to be poor. Poverty of this kind at this stage in life could be very devastating when one does not enjoy good health or have dependent children. Such person would consider life as miserable and cast blame on government, former employer and others but self.

Unfortunately, the only person that is absolved from blame for failure to plan for retirement which is self is the only one that should actively plan for it. Other persons or institutions other than self could play a role in assisting one have a blissful retirement but the sole responsibility for actualising whatever retirement plan lies in self. However, there are three basic options available to one to fund retirement such as benefit from employer, personal savings and investments:

→ **Benefit from Employer:** Employers usually provide for retirement benefits for their workforce using government policy as minimum standards. At retirement, some organisations pay lump sum to beneficiaries and additional monthly allowance to assist in making the beneficiaries meet their needs. Such payment may not include the usual allowances that make employee's monthly remuneration thick such as housing, transport, etc. It means that if such retired person has not been able to build or buy a house, the monthly allowance on retirement may not be sufficient to pay rent for the kind of house such person lived in before retirement. This instance means that such person may have to moderate the life style to fit the new income. Failure to do this without income from other sources would imply trouble for the retired person.

→ **Personal Savings:** This is income that is withheld from spending at the time it is earned. Given the fact that human wants are numerous, savings requires discipline and proper clarification of needs. Ordinarily, it would be difficult to achieve savings because one's earnings would usually appear small when compared with all the things one desires to possess. The size of income may not matter. One that desires to provide for retirement through savings would decide a percentage of the income to be saved before

the income is earned. Such percentage would be saved first before one begins to incur any expenditure. Any plan that would require one to save whatever is left after expenditure would be counterproductive because the savings would not be achieved. Savings could be achieved by keeping a percentage of earnings in the bank, cooperative society or others where a little interest may be earned and the money is safe for collection at the appointed time which is on retirement. Such attitude of discipline that was used to achieve the savings should be applied in using the money for one's upkeep at retirement.

→ **Investment:** Investments are sources of earning income for one before and during retirement. When one makes investments as sources of additional income while one is in another person's employment, they provide income that enables one to live bigger than people of the same income bracket. There may be level of one's participation in the running of the investments if they are family businesses, partnerships or other similar businesses. At retirement, one may be fully involved at a time before fully disengaging from active work. This period of involvement in the running of the investment may be considered as a period of change of job. The full retirement is when such person is free from participating in any form of running the investments. Such businesses with good administrative structure would be able to run without the participation of the investor profitably generating income for the owner. Such income would appear to be better than other forms of funding retirement since income from investment can outlive the investor. One can invest in plantation farming, processing of agricultural products, trading, consultancy, etc.

RETIREMENT INVESTMENT IN MARKETABLE PRODUCTS/SERVICES

Every product or service is expected to meet human need or solve a problem. Where this happens, the product or service would be in demand. When the demand fails, it would imply lack of awareness of the product/service or insufficient knowledge of its value. The failure in demand would make the investor not to earn sufficient income to meet personal needs which was the reason for the investment.

Sometimes, products/services are developed by investors to compete with existing products/services. This may be done without paying attention to quality, size or price of similar existing products/services. This could result in poor sale. However, when investment is made in line with one's personal interest with an eye fixed on societal needs, marketing strategies and business survival, it is more likely that it would sell. For instance, a retired person takes advantage of interest in agriculture and invest in it hoping to help in reducing food insecurity. After a bumper harvest of maize, he did not know how and where to sell the products. This kind of scenario could play out in any product or service.

However, part of the problem of the farmer described above could be late planning for retirement. Suppose the investment in farm was experimented earlier, he may have discovered the existing market for the product, determine the supply gap in the market, noted whether more income could be earned on a higher level of the value chain or prepared to overcome other obstacles

that would hinder product sale.

Feasibility study before investment could identify some of these obstacles to product sales before an investment is done. However, there is no guarantee that any study could eliminate all problems of this nature. Actual engagement in product/service development and marketing of same would be more effective in identifying and solving whatever problem may be encountered. Experience is said to be the best teacher.

The best way to determine what product/service is marketable is to test the market. One may not have to do this by engaging in full scale operation. Samples of one's product/service would be sufficient to test the market. This would also require mini investment. It would be expedient for the product/service demand to stimulate production not the other way round. This is because when huge investment is made which is usually irreversible and there is poor demand, it would require another huge investment to market the product/service which may not be easy for starters. This could be the reason why retired persons that used their life savings and retirement benefits to make retirement investment to lose everything. They are novices in the world of investment but took the risk very late hoping to sustain their standard of living.

MANAGING ONE'S RETIREMENT INVESTMENTS

Retirement investments are such business outfits that are aimed at providing one with income on retirement. Such investments are done when one is still very active either as self employed or in paid job. These investments provide one with additional income during employment or full income as self employed. One may be directly or indirectly involved in the management of the businesses. The degree of one's participation in the day to day activities of the business would signify the management structure of the organisation. Indirect involvement in the activities of the business would be a pointer that the organisation has a management structure in place.

Retirement investment should be structured to allow for indirect involvement of the investor. It may not matter whether one is self employed or in the employment of another person. The essence is to allow for rest during the period of retirement instead of engaging in another active money making ventures. Failure to do this would mean that rest, which the period is intended, may not be achieved.

Unfortunately, some people wait until official retirement (for people in employment of others) before beginning to plan for retirement investments. Such persons hope to use their retirement benefits as startup capital. They invest the money in whatever tickles their fancy without any recourse for professional advice. However, any professional advice at this time may yield little or no result because managing an investment requires skills. Very few people would be able to acquire high level skills of this nature for running whatever business at this stage in life. Therefore, it would be advisable for anyone that desires to make retirement investments to commence action from day one that such person

starts earning income.

Planning retirement investment in the form of family business could be very rewarding. Every family member may be involved at the planning stage which would give them sense of belonging.

It means that they would also be involved in running the business. Involvement at this level would enable family members acquire business skills which would be highly relevant in whatever profession the children desire to follow. Every business skill is about developing a product or service needed by man and being able to sell it to those that need it while generating income for self. This is what the children would learn and carry with them by their respective endeavours.

One would note that family members may not have all that it takes to run family businesses profitably. Other outside persons may be involved to take the business to a higher level. Involving

outside persons would not include making it impossible for them to leave at will. However, the outside persons should be given freedom to introduce innovation under close watch. This is because nobody wants to lose an investment to any careless experiment.

Running a business as a family may not allow for development of business management structure which includes accounting system that would support sound business decision making because everyone appears to be trusted. Including outside persons in the activities of the business would motivate the investor to encourage the evolvement of management style and management succession plan that would keep the organisation going even after the demise of the investor. This can also happen in the business of the self employed. In that case, the self employed may not wait until the period of ill health or incapacitation before allowing other people to help take the business to the next level.

Good management of retirement investment means that positions in the business may not be allotted on the basis of family affinity but business acumen. When the business is managed in this manner, the retired person would benefit from the investment and the family members may not search for jobs outside since they are provided for in the family business. It could then be said that graceful retirement is achieved.

CONCLUSION

Retirement is a period one stops work due to age or other matters. In most cases, this period is shrouded with uncertainties for those that failed to plan for it. Planning for this period that must surely come for everyone should commence on first day of engaging in active income generation activities. The choice of investments activities that should be undertaken to secure this period after retirement could be done with advice from professionals to reduce possible mistakes of wrong investments. This would ensure that the objective of retirement planning is achieved. That is, being able to attend to the needs of the retired person. ●

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“Businesses with good administrative structure would be able to run without the participation of the investor profitably generating income for the owner. Such income would appear to be better than other forms of funding retirement since income from investment can outlive the investor”

Fiscal Responsibility in Public Financial Management:

Confronting the Challenges of International Public Sector Accounting Standard (IPSAS)

By DANLADI I. KIFASI

1.0 Introduction

I am most honoured and delighted to be invited to make a presentation on the Topic ***"Fiscal Responsibility in Public Financial Management: Confronting the Challenges of International Public Sector Accounting Standard (IPSAS)"***. This topic is particularly appropriate and timely because Nigeria is transiting from the IPSAS cash basis to IPSAS accrual basis of accounting with effect from January, 2016.

The Federal Executive Council (FEC) had at its meeting of 28th July, 2010 approved that the Country should adopt the provisions of the International Financial Reporting Standards (IFRS) and IPSAS for Private and Public Sectors respectively.

To positively implement the decision of Federal Executive Council (FEC), the Federation Account Allocation Committee (FAAC) at its meeting held on 13th June, 2011 set up a Technical Sub-Committee to provide a Roadmap for the Implementation of IPSAS in the three tiers of Government. The Sub-committee is also to ensure a seamless migration from cash-based Accounting to the Accrual basis by the year 2016.

2.0 Process of Migration from Cash Basis to Accrual Basis of Accounting

In view of the importance of IPSAS to the economy and the need to align with global best practices, Nigeria adopted IPSAS cash basis of accounting with effect from January, 2014. In line with the timelines on migration, the country will transit to the IPSAS accrual basis with effect from January, 2016.

The process of migration is not expected to be smooth or hitch free. Hence, there are some emerging challenges that need to be addressed. For instance, what are the added values that such a migration will bring to Nigeria? What are the challenges and how can such challenges be mitigated or eliminated? This paper will address some of these issues.

3.0 IPSAS and the Quality of Financial Reporting Practices in the Public Sector

The Public Sector, as the dominant sector of the national economy, defines the quantum and direction of investments, attracts foreign direct investments, drive the pace and volume of productive activities and by extension, the level of development of the economy. The extent to which it can achieve these goals will depend significantly on the ***quality of its financial reporting practices***. Therefore, what the sector does or fails to do, will have profound and long-term implications for the entire economy and the quality of life of the populace.

International Public Sector Accounting Standard (IPSAS) are a set of professionally developed, high quality, global Accounting Standards that require accounting on Cash or a "full accruals" basis (i.e. all assets and liabilities are recorded). IPSAS generally encourages Governments to progress to the accrual basis of Accounting as well as harmonise National requirements with that of IPSAS. As you are aware, IPSAS are tailored for the public sector and therefore its use is considered best practice for public sector entities (Governments, Government business entities, non-

Governmental organisations and international organisations).

The primary objective of the IPSAS-Board is to develop and issue International Public Sector Accounting Standards as well as other guidance that represent good accounting practices to be followed by public sector entities around the world.

Specifically, the IPSAS-Board ensures quality, accountability and transparency of public sector financial reporting through:

- i. Establishing high quality accounting standards for use by public sector entities;
- ii. Promoting the adoption and international convergence to IPSAS;
- iii. Improving the quality of General Purpose Financial Reporting by public sector entities leading to better informed assessments of the resource allocation decisions made by Government, thereby increasing transparency and accountability;
- iv. Providing comprehensive information for public sector financial management and decision making; and
- v. Providing guidance on issues and experiences in financial reporting in public sector.

4.0 Drawbacks of Cash Basis of Accounting

The use of Cash Basis of Accounting by the three tiers of Government has a number of drawbacks which include:

- i. Limitation in scope because of lack of a framework for accounting for assets and liabilities, depicting consumption of resources, which is less informative way of presenting Government account
- ii. Capital expenditure is accounted for only in the year in which a purchase or disposal of an asset is made, and there is no effective way of tracking assets created out of public money, which, in turn, dilutes accountability of departments for management of Government's assets.
- iii. Failure to reflect accrued liabilities arising from the timing difference between commitments and transactions of Government and payments. It tends to highlight short term perspective rather than long term.
- iv. Incompleteness and distortions in recording and reporting of transactions, makes it less transparent and can neither be used for meaningful cash management nor for rational resource allocation. These weaknesses have attracted the international community to move from cash based accounting to Accrual accounting.

5.0 Public Financial Management Reform Initiatives of the Federal Government

It is pertinent to acknowledge the intervention of the World Bank through the Economic Reforms and Governance Programmes (ERGP), which has resulted in a lot of positive developments initiated and implemented by the Office of the Accountant-General of the Federation (OAGF) and the Office of the Auditor-General for the Federation (OAuGF). The implementation of these initiatives must be sustained and improved upon in order to successfully migrate to IPSAS accrual basis of accounting next year.

Section 25 of the said FRC Act, 2011 states that the Directorate of Accounting Standards (Public Sector) shall, among others:

- a) Develop accounting and financial reporting standards for the public sector;

- b) Consider significant areas of accounting and financial reporting that can be improved through the standard setting process;
- c) Promote the general acceptance and adoption of such standards by preparers and users of financial statements in the public sector;
- d) Promote compliance with the accounting standards developed or reviewed by the Directorate; and
- e) Review from time to time the accounting standards developed in line with the prevalent social, economic and political environment.

Some of the initiatives which are already yielding results are:

- i. **GIFMIS** – Government Integrated Financial Management Information System – This is an IT based system for Budget Management and Accounting to improve Public Expenditure Management. It enhances greater accountability and transparency;
- ii. **E-Payment System** – This involves automated processing of transactions through information technology without physical evidencing. Funds are transferred electronically and value given immediately;
- iii. **The National Chart of Accounts (NCOA)** – This is an integrated budget and accounting classification system that assists the orderly recording, storage, analysis and reporting of budgetary and accounting data. The code has 52 digits which has been designed to facilitate compliance with IPSAS reporting and disclosure requirements;
- iv. **Integrated Payroll and Personnel Information System (IPPIS)** – This is a centralised computer based payroll and personnel management system which is aimed at eliminating payroll fraud. It also facilitates the determination of actual number of personnel and total cost of salaries as well as data integrity;
- v. **Treasury Single Account (TSA)** – This is a unified Government bank account or a set of linked accounts through which all Government receipts and payments are transacted. It enables the Office of Accountant-General of the Federation to know at any-time the consolidated cash position of Federal Government;
- vi. **Modernisation of the Internal Audit** – The Office of the Accountant-General of the Federation has developed a Roadmap for modernisation of internal audit functions. Some internal audit staff have been trained on risk-based audit;
- vii. **Budget Reforms** – Three year rolling plan – Medium Term Expenditure Framework (MTEF). The yearly national budget is now derived from the Medium Term Expenditure Framework enhancing planning by the Government;
- viii. **Federal Treasury Academy, Orozo** – Training is ongoing at the Federal Treasury Academy Orozo on Public Financial Management.

In addition to these initiatives, the Federal Government had previously taken measures to strengthen accountability and transparency in Public Financial Management. These include the enactment of the following Laws:

- a. Fiscal Responsibility Act (FRA), 2007.

- b. Public Procurement Act (PPA), 2007.
- c. Freedom of Information (FoI) Act, 2011.
- d. Corrupt Practices & Other Related Offences Act, 2000.
- e. Economic and Financial Crimes Commission (EFCC) Act, 2004.
- f. Repeal of the Nigeria Accounting Standards Board (NASB) Act, 2003 and the Enactment of Financial Reporting Council (FRC) Act, 2011.

Also, efforts are on-going to ensure seamless migration to the new reporting framework. Some of these are:

- i. Ethical reorientation of public servants;
- ii. Capacity development of public servants especially in ICT and its applications;
- iii. Provision of ICT equipment and systems;
- iv. Strict enforcement of the provisions of the Public Service Rules (PSR), Financial Regulations (FR) and other Extant Circulars;
- v. Sensitisation and enlightenment of key stakeholders in the Federal, States and Local Governments;
- vi. Quarterly publication of FAAC Sub-Committee on IPSAS implementation in Nigeria;
- vii. Constitution of National Sub-Committee on IPSAS in Nigeria with membership cutting across the Federal, States and Local Governments;
- viii. Constitution of IPSAS implementation committees at the Federal, States and Local Government levels;
- ix. Constitution of a technical study group to domesticate the standards to the Nigerian context;
- x. Legal and administrative framework for the three tiers of Government in Nigeria to adopt IPSAS;
- xi. Establishment of an IPSAS Secretariat domiciled in the Consolidated Accounts Department (CAD) of the OAGF where information and up-to-date activities of the sub-committee can be obtained.

6.0 Gap Analysis Between the IPSAS and Present Financial Reporting System

In line with the Federal Government of Nigeria's goal to significantly strengthen governance and accountability, reduce corruption and deliver services more effectively and efficiently, the Government conducted a Gap analysis between the International Public Sector Accounting Standard (IPSAS) and relevant National Standard and Reporting System with a view to improving the state of Public Financial Management and Reporting.

Some of the identified gaps are explained below:

► Legal Basis for Cash Basis Accounting:

The prevailing laws in Nigeria that guide Public Sector accounting do not specifically state the Accounting basis to be adopted. There is no specific mention in the authoritative documents relating to 'Cash basis' of budgeting and accounting. 'Cash' basis is therefore presumed for budgeting and accounting. Federation Accounts Allocation Committee (FAAC) on standardisation of Federal, States and Local Government accounts merely made a pronouncement that accounting for Government may continue on 'cash' basis. This is merely a pronouncement on harmonised format of reporting which is however not legally enforceable. Notwithstanding the absence of specific mention

relating to cash basis, the financial statements of the Federation are prepared on cash basis. There are no non-cash items in the statement of receipts and payments (Cash flow statement) for instance. This role is expected to be covered by the Financial Reporting Council.

► Accounting for External Assistance (IPSAS 1.10.8 to 1.10.11):

These sections require entity to disclose on the face of the Financial Statement of Cash Receipts and Payments External Assistance received during the reporting period. The requirements can be summarised as: Disclosure of all External Assistance to the Reporting Entity; Disclosure of External Assistance paid by Third Parties to settle obligations or purchase goods and services of the Reporting Entity; Details of the providers of the External Assistance to be disclosed (problem of transparency by donors); and External assistance in form of Loans and Grants to be reported. Most of the Public sector entities in Nigeria do not Account for External Assistance received in form of loans, grants, aid and donations.

► Consolidation of the Accounts of Controlled Entities:

IPSAS envisages recognition of all cash receipts, cash payments and cash balances controlled by the entity. This control may imply that Government will have to add the cash flows of the entities that it controls i.e., for example, parastatals such as Government Companies, Corporations, Autonomous bodies, etc. The cash flows does not mean merely the investments and dividends, but all cash flows through sales, purchases, receipts and payments of controlled entities, the net of which has to be consolidated with the entity.

The Consolidated Financial Statement of the Federal Government does not include all cash receipts, cash payments and cash balances of entities controlled by the Federal Government. There are many agencies owned by the Federal Government, but their cash flows are not brought into the financial statements of the Federation. Examples include: **NNPC, NDIC, BPE, CAC, NAMA, Shippers Council, National Maritime Agency, NPA, FAAN, SEC, NCAA**, etc. With the migration to IPSAS Accrual it will be possible to Consolidate the Account on the same basis.

► IPSAS does not cover the numerous reporting formats of activities of Government to Agencies such as National Assembly, World Bank, etc.

7.0 Added Value for Adoption of IPSAS in Nigeria

With IPSAS gap analysis and the bridging of the identified gaps in Nigeria, the users of financial information will be able to benefit from a common set of Public Sector Accounting and Auditing Standards issued by International Federation of Accountants and the International Organisation of Supreme Audit Institutions that are consistent, coherent and understandable.

Migration to IPSAS based standards will enable us to provide more meaningful information for decision makers and improve consistency, quality and credibility of our financial reporting system.

The strategic plans and reports we prepare will be meaningful as increased transparency provides a basis for our development

partners and the legislature to assess the effectiveness and efficiency of resources. Thus, enhancing accountability, transparency and harmonisation.

The implementation of IPSAS based Standards makes it possible for efficient internal controls and results based management. Its adoption will provide a unified approach to managing all funds and the basis for benchmarking with similar institutions as well as forecasting future flows of all resources to the organisation.

In summary through the adoption of IPSAS the following advantages will accrue to the Country:

- Improved Accountability and Reporting;
- Improved Public Financial Management;
- Aligning very closely the Budgets and Accounts;
- Aligning Management and external Reporting;
- There would be a link to objectives and performance;
- Alignment of our country's Accounting with best Accounting practices;
- More comprehensive information about costs that better support results based performance;
- Integration of non-expendable equipment into the Accounting system; and
- Improved consistency and comparability of Financial Statements.

8.0 Possible Challenges in Migration to Accrual Based Accounting Standards

► Relevant enabling legislations need to be changed in line with reality of Accrual Accounting. The available Legislations in the Country like the Finance (Control and Management) Act.1958, the Fiscal Responsibility ACT 2007; Audit ACT 1956, Financial Regulations etc does not have specific provisions as to the use of IPSAS Accrual basis of Accounting.

► The provision of section 2, subsection 2 of the 1999 Constitution states that as a Federation, each state is independent of the Federal Government. This will have a major impact on the implementation of IPSAS for the Federal Government, 36 States and the 774 Local Government Councils. This provision makes the adoption not mandatory. Hence the States and Local Government Council can only be encouraged through Moral suasion.

► Similarly, the issue of seamless consolidation of the Accounts of the three tiers of Government with uniform reporting format to generate a Consolidated Fiscal Report will no doubt add premium to our Financial Reporting system. Some States might decide to do the contrary. But this will need to be discussed and agreed with the States in view of the provision of Fiscal Federalism.

► Under Part IV section 16 of the Finance (Control and Management) Act 1958 unexpended votes are to lapse and credited back to the Consolidated Revenue Funds. Under an Accrual Based Accounting, the balances are supposed to roll-over to the New Year. These are grey areas of conflict that need to be sorted out.

► Under the Provision of the second schedule of the Finance

(Control and Management) 1958 Act, all Capital Revenues of the Federal Government are expected to be paid into the Capital Development Fund of the Government. This would facilitate Accrual Basis of Accounting. However, its operation at present appears to have been replaced by Consolidated Revenue Fund.

► To ensure seamless transition from the cash basis to the accrual basis there is the need to first take up pilot studies in select departments and offices to migrate to accrual accounting. The pilot studies may be based on IPSAS accrual. Accrual accounting does not necessarily mean a 'full accrual'. Many nations across the world, targets a unique model of accrual accounting or modified accrual. The extent of accrual accounting appropriate for any country can be decided through pilot studies.

► Accounting curricula need to systematically convey IPSAS to students of Accountancy and Continuing Professional Education on Ethics and Professional Responsibility. Similarly relevant Accounting manuals need to be reviewed and rewritten.

► The profession needs to make commitment to producing IPSAS specialists. Such experts will be available as resource persons in cases where IPSAS is in use. IPSAS specialist should be knowledgeable about available resources that can help answer professional responsibility question. An IPSAS specialist should work to maintain an environment that stresses the importance of IPSAS adoption and implementation.

► The need for the right staffing skills. This requires training and re-training of Accounting Personnel. The use of integrated Financial Management Information System to platform the system such as the use of Government Integrated Financial Management Information System (GIFMIS) at the Federal level since year 2012 is imperative to have a seamless migration to an accrual based system.

9.0 Conclusion

Ladies and Gentlemen, I have, in my brief presentation, tried to erase any iota of doubt as regards the implementation of IPSAS Reporting Framework in Nigeria. There is no doubt that the accrual basis of accounting which the country is transiting to in 2016 will build public confidence and encourage accountability and transparency in the conduct of Government business. All efforts must be made to ensure successful implementation of IPSAS accrual basis of accounting to facilitate production of accurate and reliable financial statements that can be used for decision making by the stakeholders and to keep pace with global best practices and development.

In conclusion, I want to thank the Institute for this honour and privilege to be part of this epoch making event of the 45th Annual Accountants Conference and the 50th Anniversary of the Institute. ●

★ **Barrister Danladi Kifasi, CFR, mni, the former Head of Civil Service of the Federation presented this paper at the 45th Annual Accountants' Conference of The Institute of Chartered Accountants of Nigeria (ICAN) in Abuja, September 2015.**

Impact of Moral Hazard and Financial Renegotiation on the Roles and Responsibilities of Government in Public Private Partnership in Nigeria

By **TALEATU TAOFIKI AKINWUMI**

This research sought to appraise the impact of moral hazard and financial renegotiation on role and responsibilities of government in Public Private Partnership (PPP) Concession in Nigeria. 50 copies of questionnaire were administered on professionals involved in PPP Concession in Lagos State, that include Quantity surveyors, Architects, Engineers, Lawyers and Accountants in the public and private sectors. Data analyses involved the use of both descriptive and inferential statistical tools using Statistical Package for Social Sciences (SPSS) version 21. The study found that occurrence of moral hazard and financial renegotiation is high. The study noted that there is significant relationship between moral hazard and role and responsibilities of government. The study suggests that failure of PPP concession in Nigeria may be due to low attention given to means of checking moral hazards. However, the study could not establish a relationship between financial renegotiation and role and responsibilities of government.

Keywords: Public Private Partnership (PPP), Role and Responsibilities of Government, Moral Hazard and Financial Renegotiation.

1.0 Introduction

Many developed nations in the world jumpstarted their economies by accelerating their infrastructure and building on it; the United States of America is one of such nations. The late President J.F. Kennedy of USA once stated that, “America has good roads, not because America is rich, but America is rich because it has good roads (Obozuwa, 2010). It has been suggested that an increase in the stock of public capital can raise the steady state growth rate of

output per capita, with permanent growth effects Barro and Sala-i-Martin (1992) in Loayza & Odawara, 2010; Obozuwa (2010). Canning & Pedroni (2004) found that, in the vast majority of cases examined, infrastructure does induce long run growth effects. This implies that there seems to be a correlation between any meaningful inputs in infrastructure development and economic growth indices.

The need for the provision of infrastructure in any developing country like Nigeria cannot be overemphasised as it constitutes

the backbone of the national economy. Government at all levels has often borne the full responsibility of providing infrastructure through dependence on loans and credits from financial institutions with consequences of debt burden such as inability to pay workers' salaries and allowances. Public Private Partnership (PPP) that has been an important strategy in delivering public facilities and services in many countries is viewed as a viable alternative to infrastructure financing if properly embraced by Nigeria government. However, infrastructure deficiency and decay permeate every sector of Nigerian Economy. In transportation sector alone, there are chronic deficiencies in infrastructure on roads, rails, sea ports and air ports. Consequently, the Federal Government entered into PPP concession of Murtala Muhammed Airport 2 to Bi-courtney for its rehabilitation and maintenance in 2003, under a Build-Operate-Transfer (BOT) arrangement. In the same vein, Mordi (2010) stated that Lagos State is the first to introduce PPP to road transportation infrastructure development through Lekki-Epe expressway concession. Lagos-Ibadan expressway concession between the Federal Government and Bi-Courtney is another effort towards infrastructure development via PPP. The Federal Government later terminated the agreement it entered into with Bi-Courtney Consortium partly on ground of funding problem. Parts of the major challenges that may be facing PPP concession in Nigeria could also be moral hazard and financial renegotiation which may be connected to role and responsibilities of government. Thus, it seems that there is need to clarify the role and responsibilities of government in PPP concession in Nigeria.

2.0 Objectives of the Study, Research Questions and Research Hypotheses

The objectives of the study are to:

- Assess the role and responsibilities of government in PPP Concession.
- Investigate how moral hazard (agency problem variable) impact on role and responsibilities of government in PPP concession.
- Evaluate how financial renegotiation (transaction cost variable) influence role and responsibilities of government in PPP concession.

The following research questions were answered through response obtained from perceptions of the stakeholders in PPP concession on the variables of the study:

- What are the role and responsibilities of government in PPP Concession?
- How does moral hazard (agency problem variable) impact on role and responsibilities of government in PPP concession?
- How does financial renegotiation (transaction cost variable) influence role and responsibilities of government in PPP concession?

From the opinions of PPP concession stakeholders, the following hypotheses stated in the null form were tested and analysed:

- There is no significant relationship between moral hazard displayed by the private partners and role and responsibilities of government in PPP concession.
- There is no significant relationship between financial renegotiation and role and responsibilities of government in PPP Concession.

3.0 Literature Review

General Review

PPP has been an important strategy in delivering public facilities and services in many countries Kwak *et al.* (2009). Even with this wide adoption, the term "PPP" is still not clearly defined. There is no precise and widely accepted definition of PPP and the concept of PPP is still contested (Khanom, 2010). However, several definitions of PPPs have been used by different scholars, governments, and international organisations. Some of these definitions are quoted to gain a better understanding of the concept. As advanced by HM Treasury (1998), PPP is an arrangement between two or more entities that enables them to work cooperatively towards shared or compatible objectives and in which there is some degree of shared authority and responsibility, joint investment of resources, shared risk taking, and mutual benefit. According to Canadian Council for Public-Private Partnership (2004), PPP is a cooperative venture between public and private sectors, built on the expertise of each partner that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards. Thus, the term PPP has taken on a very broad meaning and the key elements, however, are the existence of a "partnership" style approach to the provision of infrastructure as opposed to an arm's-length "supplier" relationship. Either each party takes responsibilities for an element of the total enterprise and they work together, or both parties take joint responsibility for each element.

However, various types of partnerships have been implemented to reflect different project objectives and requirements. These PPPs generally vary in terms of the degrees of private involvement. At one extreme is the public provision, where the public sector is fully responsible for all aspects of delivering public services; while at the other extreme is the private provision, where the private sector assumes all those responsibilities. As the PPP move from the end of the purely public provision to the other, the degree of private involvement increases. Some types of PPP models in existence include Operation-Maintenance (OM), Design-Build-Operate (DBO), Design-Build-Finance-Operate (DBFO), Build-Operate-Transfer (BOT) and Build-Own-Operate (BOO). DBFO and BOT are observed to be the most favoured PPP models in Nigeria so far.

Role and Responsibilities of Government

The government plays a critical role in the development and management of a PPP project. The inappropriate involvement of government or the incapability of government to manage PPP projects may lead to project failure (Kwak, 2002). Bangkok Elevated Transport System (BETS) in Thailand is one example. The BETS is a BOT-type PPP project, which was planned to construct a 60 km elevated rail system and a road through the heart of the capital. Hopewell, the concessionaire, was granted the right to collect tolls for 30 years and to develop 900,000 m² of land along the proposed route. This project was ultimately terminated by Thai Government. Sudden changes requested by the government and the lack of governmental assistance in resolving the conflicts with a nearby competitive toll way have been identified as the causes to the project failure (Kumaraswamy & Zhang, 2001).

Koch & Buser (2006) explained that the roles of the Denmark government in managing PPP projects include: to establish a central counseling unit; to develop a set of guidelines, tools, and

standard contracts; to select a set of pilot projects; to subsidise feasibility studies; and to investigate potential sectors for PPP. Durchslang *et al* (1994) advanced that the issues that governments need to deal with the BOT scheme to work smoothly include: establish adequate legal and regulatory framework, provide stable political environment, develop domestic capital market, ensure a fair and competitive bidding, provide adequate government assistance and guarantees, conduct project feasibility study, select the most suitable concessionaire and continuous assessment of project progress and performance. Pongsiri (2002) emphasised the necessity of establishing a well-defined, but not overregulated, regulatory framework.

Nevertheless, Nigeria's policy on PPP is to the effect that it will develop regulatory and monitoring institutions so that the private sector can play a greater role in the provision of infrastructure, whilst ministries and other public authorities will focus on planning and structuring projects. The private sector will be contracted to manage some public services, and to design, build, finance and operate infrastructures. It is the government's expectation that private participation in infrastructure development through PPPs will enhance efficiency, broaden access, and improve the quality of public services. This policy statement sets out the steps that the Government will take to ensure that private investment is used, where appropriate, to address the infrastructure deficit and improve public services in a sustainable way; and it will ensure that the transfer of responsibility to the private sector follows best international practice and is achieved through open competition Obozuwa, (2010). However, this laudable policy has not yielded appreciable outcomes in the country. In a nut shell, the five main roles of the government in PPP as concluded by Kwak *et al* (2009) were investigated in this study. These are: to create favorable investment environment, to establish adequate legal/regulatory frameworks, to establish a coordinating and supportive authority, to select a suitable concessionaire, and to be actively involved in project life-cycle phases.

Theoretical Frameworks

Three approaches have come to dominate the analysis of contracts. Agency theory (AT) focuses on remuneration schemes: contracts are drawn to facilitate risk transfer and foster incentive alignment Masten and Saussier, (2002). Incomplete contract theory (ICT) lays its root in the effects of property-rights allocation on the distribution of the residual surplus between contracting parties, and on parties' incentives to invest (Brousseau and Glachant, 2002). Transaction cost economics (TCE) considers contracts as devices structured ex ante to foster ex post efficiency, hence placing greater emphasis on ex post support institutions of contract Williamson, (1985). A theoretical framework ensures a structured approach for the identification of relevant success factors. Transaction cost theory and principal agent theory provide such a frame because PPP projects are characterised by a high level of interaction between two actors whereby various transaction costs evolve.

Agency Theory: Palmer, (2009) stated that Agency Theory is more commonly referred to as the principal-agent theory and that the theory focused on the relationship between principals and agents who exercise authority on behalf of organisations. Palma *et al* (2009) noted that an approach to PPPs is based on

the theory of incentives and principal-agent (P-A) developed by Laffont and Tirole (1993). They explained further that incentive theory describes the behavior of a boss (the principal) who cannot accurately monitor the productivity of his or her employee (the agent) and that the principal can, however, introduce a set of incentives in order to increase the agent's efficiency. They advanced that such incentives are costly and some are working better than others and that in situations where incentives cannot be perfect, this lead to moral hazard issues on the part of the agent. Arnold & Kehl (2010) listed conditions that predispose to moral hazard on part of the private partners to include: tendency not to enter into PPP contract in good faith; provision of misleading information about its assets, liabilities or credit capacity; taking unusual risks in a desperate attempt to earn a profit; misleading the public partner about its professional skills and that PPP is opened to negotiation power of the parties involved. These conditions are part of the components of the questionnaire. This theory indicates that information asymmetry in PPP introduces moral hazard problems which makes it necessary to investigate the means of reducing moral hazard. However, Palma *et al* (2009) advanced that the principal must try to reduce these moral hazard issues as best it can by such measures as: using an auditor to find out the true state of nature; establishing a fully specified, enforceable contract between the government and the firm; ensuring stable terms of contract over time; measurable output indicators and service delivery that can be monitored and credible punishment in case cheating is proven. These measures constitute parts of the questionnaire items.

Transaction Cost Theory: The idea that transactions form the basis of an economic thinking was introduced by The Institutional Economist Commons (1938). The term "transaction cost" is frequently thought to have been coined by Coase (1937), who used it to develop a theoretical framework for predicting when certain economic tasks would be performed by firms, and when they would be performed on the market. Arguably, transaction cost reasoning became most widely known through Williamson's Transaction Cost Economics (1985). Today, transaction cost economics is used to explain a number of different behaviours. Palmer (2009) advanced that when focusing on contracts, this theory views the parties attempting to engage in exchange as contracting both the terms of the exchange and their execution; taking into account all the expenses made in order to reach that contract, whether personal or social. He added that the contracting process can be very costly in that it includes not only the structuring, monitoring, bonding and residual loss costs of the principal-agent problem, but also includes the costs of negotiation. Ho (2010) outlined the institutional factors contributing to financial renegotiation to include; inexperienced government's professional capability in PPPs, immature PPP financial market, low government's tolerance for project failure, immature legal system and high legitimacy of government subsidies for PPP projects. An appraisal of the institutional factors contributing to financial renegotiation may indicate the likelihood of high or low transaction cost of PPP infrastructure projects in Nigeria. Therefore these factors were examined in this study.

4.0 Research Methodology

This study adopted a cross sectional survey research design, a

type of non-experimental research design. It is the major design used in social sciences (Frankfort-Nachmias and Nachmias, 2006). The study involved formulation of closed-ended questionnaire (survey instrument) by which the magnitude of the desired variables as well as the interrelationship among the variables was measured. The survey instrument contains items needed to answer the research questions and test the research hypotheses. In line with the survey design, a five-point Likert scale questionnaire was used, having patterned rating at the two extremes as strongly agreed (SA) and strongly disagreed (SD) on a nominal scale of 1 to 5. All professionals that represent project advisors in infrastructure Concession Procurement Contracts in Lagos state constitutes the population of the study. The purposive sampling of non-probability method of sampling was adopted to obtain representative sample of the professionals through the researcher's judgment. The respondents were selected from stratified samples of the professionals which include Quantity Surveyors, Architects, Engineers, Lawyers and Accountants. Since it was impractical to reach the entire population of the study, the sampling size was limited to fifty (50) members of professional groups of twenty five (25) each from the public and private sectors. The twenty-five (25) participants from each of the sector comprised five (5) members each from the five (5) professional groups chosen for the study. Copies of the questionnaire were administered to the selected sample of respondents in the employment of Parties involved in PPP infrastructure concession in Lagos State which include: Private Sectors – Lekki Concession Company Ltd (LCC) in charge of Lekki-Epe Expressway upgrade, Farewell Funeral Homes Limited (FFHL) – concessionaire of Isolo mortuary project and First World Community Limited handling the delivery of 10,000 affordable housing units within the 3 senatorial districts of the state (namely Ikorodu, Badagry and Lekki-Epe axis) and Public Sector – Lagos State Government (LASG) represented by Lagos State Ministry of Works, Lagos State Ministry of Health, Lagos State Ministry of Housing and Office of Public-Private Partnerships, Lagos State.

This study adopted both descriptive and inferential statistics to analyse the results. Means and standard deviation were employed in the analysis of relevant questionnaire items to provide answers to the research questions. The hypotheses of the study were tested using simple linear regression model. Statistical Package for Social Sciences (SPSS) version 21 was employed for the analysis of the results. Equations (1) and (2) show the simple linear regression models designed for the study to test linearity relationship between moral hazard/financial renegotiation and role and responsibilities of government respectively.

$$RRG = \pi + \alpha MH + \varepsilon \dots\dots\dots (1)$$

$$RRG = \pi + \alpha FR + \varepsilon \dots\dots\dots (2)$$

Where:

RRG = Roles and responsibilities of government, MH = Moral hazard, FR = Financial renegotiation, π = Intercept, α = Regression coefficient and ε = Error term.

5.0 Results and Discussion

Analysis of Data on Research Question One

Research question one seek to examine the extent to which the government executes its expected role and responsibilities in PPP concession. Two of the items examined had mean scores

slightly greater than 3.00: establishment of adequate legal/regulatory frameworks (mean score = 3.49) and establishment of a coordinating and supportive authority (mean score = 3.49) which suggested that government execute these roles to a fair extent. However, the remaining three items examined have mean scores far below 3.00 which suggests that Nigerian government was lacking in: creation of favourable investment environment (mean score = 1.85), selection of a suitable concessionaire (mean score = 2.79) and active involvement in project life-cycle phases (mean score = 2.74). On the average, all the five statements examined have a mean score of 2.87 which confirms that the government is lacking in execution of role and responsibilities expected of it to facilitate success of PPP concession in Nigeria.

Analysis of Data on Research Question Two and Hypothesis One

Research question two bordered on the extent to which moral hazard could influence role and responsibilities of government. The respondents strongly agreed that all the five questionnaire items on existence of moral hazards in PPP concession in Nigeria were relevant (mean score > 4.0). That private partners often provide misleading information about their assets, liabilities or credit capacity has the highest mean score of 4.71 while private partners have tendency not to enter into PPP contract in good faith has the lowest mean score of 4.67. On the average, the five items examined have a mean score of 4.68 which suggests that there is high possibility of the existence of moral hazard in PPP concession in Nigeria. On ways of minimising moral hazards in PPP concession; 'Measurable output indicators' and 'service delivery that can be monitored' both tie with the highest mean score of 4.95 while 'a fully specified, enforceable contract between the government and the firm' has the lowest mean score of 4.36 implying strong agreement with the five identified ways of minimising moral hazards in PPP concession. On the average, the five items investigated have a mean score of 4.64 indicating that moral hazards in PPP concession can be minimised.

Hypothesis One – The hypothesis seek to answer research question two. The hypothesis stated in the null form is "there is no significant relationship between moral hazard displayed by private partners in PPP concession and role and responsibilities of government.

Regression Results Analysis – A simple linear regression model as shown below was used in explaining the extent of influence moral hazard (MH) has on role and responsibilities of government (RRG) in PPP concession in Nigeria. The regression analysis was performed at a 0.05 level of significance using SPSS Version 21.

$$RRG = \pi + \alpha MH + \varepsilon \text{ (from equation 1)}$$

The regression result (R^2) was found to be statistically significant at $p < 0.05$. **Table 7.1** summarises the model by displaying the adjusted R^2 to be 41.0% which implies that 41.0% of the dependent variable, role and responsibilities of government could be significantly predicted by the independent variable, existence of moral hazard.

Table 7.2 summarises the results of analysis of variance by revealing the p-value to be 0.000 which is below α -value of 0.05.

Table 7.1:
Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.640 ^a	.410	.394	.44948

a. Predictors: (Constant), MH b. Dependent Variable: RRG
Source: *Field Survey (2015)*

Table 7.2:
ANOVA^b

Model	Sum of Squares	Df	Mean Square	F	Sig.
Regression	5.191	1	5.191	25.696	0.000
Residual	7.475	37	.202		
Total	12.667	38			

a. Predictors: (Constant), MH b. Dependent Variable: RRG
Source: *Field Survey (2015)*

Table 7.3:
Coefficients^a

Model		Unstandardised Coefficients		Standardised Coefficients	T	Sig.
		B	Std. Error	Beta		
1	(Constant)	1.272	.673		1.889	.067
	MH	.708	.140	.640	5.069	.000

a. Predictors: (Constant), MH b. Dependent Variable: RRG
Source: *Field Survey (2015)*

Therefore, the null hypothesis is rejected and it is upheld that there is significant relationship between moral hazard displayed by private partners in PPP concession and role and responsibilities of government. The fitness of the model can also be explained by F-ratio (F) in Table 7.2. According to Field (2000), a good model should have a large F-ratio. In this study, F-ratio is 25.696, which is also significant at $p < 0.001$. Hence, conclusion can be drawn that the regression model significantly predicts the existence of moral hazard in PPP concession.

Furthermore, the coefficients of the model and t-values are shown in Table 7.3. The regression coefficient is 0.708 while the t-value is 5.069. The probability that the t-values occurred by chance is less than 0.001, suggesting that the variable reflects genuine effects. The study concluded that existence of moral hazard makes a significant contribution ($p < 0.001$) to predicting role and responsibilities of government in PPP concession. Hence existence of moral hazard has influence on role and responsibilities of government in PPP concession.

The equation took the form of:
 $RRG = 1.272 + 0.708MH$ (1)

Analysis of Data on Research Question Three and Hypothesis Two

Research question three centered on influence of financial

renegotiation on role and responsibilities of government in PPP concession. Low government's tolerance for project failure has the highest mean score of 4.90 while high legitimacy of government subsidies for PPP projects has the lowest mean score of 4.28 implying that all these five institutional factors could lead to financial renegotiation to a very high extent. On the average, the five items assessed have a mean score of 4.73 implying high possibility of financial renegotiation in PPP concession in Nigeria.

Hypothesis Two – The hypothesis seek to answer research question three. The hypothesis stated in the null form is “there is no significant relationship between financial renegotiation and roles and responsibilities of government in PPP Concession”.

Regression Results Analysis – A simple linear regression analysis performed at a 0.05 level of significance, as shown in the model below explains the extent of influence that financial renegotiation has on role and responsibilities of government.

The regression result (R^2) was found to be statistically non-significant at $p < 0.05$ with negligible variation in RRG explained by FR ($R^2 = 0.026$) as shown in Table 7.4. Hence, the null hypothesis that “there is no significant relationship between financial renegotiation and role and responsibilities of government in PPP Concession” is accepted.

Table 7.4:
Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.160 ^a	.026	.000	.54878

a. Predictors: (Constant), FR b. Dependent Variable: RRG
Source: *Field Survey (2015)*

Table 7.5:
ANOVA^b

Model	Sum of Squares	Df	Mean Square	F	Sig.
Regression	.293	1	.293	.973	.330 ^a
Residual	11.143	37	.301		
Total	11.436	38			

a. Predictors: (Constant), FR b. Dependent Variable: RRG
Source: *Field Survey (2015)*

Table 7.6:
Coefficients^a

Model		Unstandardised Coefficients		Standardised Coefficients	T	Sig.
		B	Std. Error	Beta		
1	(Constant)	6.143	1.421		4.322	.000
	FR	-.286	.290	-.160	-.986	.330

a. Predictors: (Constant), FR b. Dependent Variable: RRG
Source: *Field Survey (2015)*

Table 7.5 summarises the results of analysis of variance, revealing the p-value to be 0.330 which is above α -value of 0.05. Therefore, the null hypothesis is accepted. The non-fitness of the model can also be explained by F-ratio (F) in **Table 7.5**. In this study, F-ratio is too small (0.973), which is also not significant at $p < 0.001$. Hence, conclusion could be drawn that the regression model could not significantly predict the influence of financial renegotiation on role and responsibility of government in PPP concession in Nigeria.

Furthermore, the coefficients of the model and t-values are shown in **Table 7.6**. The regression coefficient is -0.286 while the t-value is -0.986. The probability that the t-values occurred by chance is greater than 0.05 ($p = 0.330$), suggesting that the variable does not reflect genuine effects. The study concluded that financial renegotiation does not make a significant contribution ($p > 0.05$) to predicting roles and responsibilities of government in PPP concession in Nigeria.

Discussion on Findings of the Study

Research question one seek to assess the extent to which government executes its expected role and responsibilities in PPP concession in Nigeria. The descriptive statistics result supported legal/regulatory role for the government which agreed with the positions of Obozuwa (2010), Pongsiri (2002), Koch

& Buser (2006), Abdel-Aziz, (2007) & Durchslang *et al.* (1994) that government’s policy on PPP was to the effect that it would develop regulatory and monitoring institutions so that the private sector could play a greater role in the provision of infrastructure, whilst ministries and other public authorities would focus on planning and structuring projects. This finding contradicted the studies of Kwak (2002) & Kwak *et al.* (2009) which advanced that inappropriate involvement of government in PPP projects may lead to project failure.

On how moral hazard could influence role and responsibilities of government, the findings revealed that the respondents strongly agreed that existence of moral hazard in PPP concession is high. This study agreed with the propositions of Palma *et al* (2009) and Arnold & Kehl (2010) that where the incentives introduced by the principal in order to increase the agent’s efficiency are not perfect, they lead to moral hazard issues on the part of the agent. However, the study noted that moral hazard in PPP concession can be minimised. This outcome conformed to the propositions of Palma *et al* (2009) that the best results for the principal and/or the agent could be obtained by taking adequate measures on checking moral hazard. From hypothesis one, the regression result ($R^2 = 41.0\%$, $p < 0.05$) and correlation result ($r = 0.64$) were found to be statistically significant and it could be concluded that the role and responsibilities of government could be significantly influenced by

moral hazard in PPP concession.

While assessing how financial renegotiation influences role and responsibilities of government in PPP concession, the descriptive statistics result (average mean = 4.73) suggests high possibility of financial renegotiation in PPP concession in Nigeria. The finding agreed with the proposition of Palmer (2009) that private production can raise transaction costs and the result also conformed to the study of Ho (2012) which found that the mean scores of five institutional factors contributing to financial renegotiation investigated were not below 4.00.

Hypothesis two seek to answer research question three. The regression result ($R^2 = 0.026$) and correlation result ($r = -0.16$) were found to be statistically non-significant suggesting that there is no significant relationship between financial renegotiation and role and responsibilities of government in PPP Concession.

6.0 Conclusion and Recommendations

The results of the study revealed that the government was lacking in execution of role and responsibilities expected of it to facilitate success of PPP concession projects in Nigeria. From the outcome of incorporated agency and transaction cost theories in this study, it could also be concluded that there was high possibility of existence of moral hazard and financial renegotiation in PPP concession in Nigeria. Moral hazard was found to be significantly associated with role and responsibilities of government but could be minimised. On the other hand, financial renegotiation was found to be insignificantly associated with role and responsibilities of government. Therefore it is recommended that efforts should be made by government to ensure that moral hazard in PPP concession in Nigeria is minimised to the barest minimum. It is also recommended that efforts should be made by the private partner to ensure that financial renegotiation in PPP concession in Nigeria is minimised for the success of this public finance alternative approach.

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Stamp Duties Now Payable on Banking Transactions

The Central Bank of Nigeria (CBN) on 15 January 2016 released a circular directing all deposit money banks and financial institutions to commence the charging of N50 as stamp duties on all receipts given in acknowledgement of services rendered for eligible transactions.

Background

The Stamp Duties Act (SDA) imposes stamp duties on 'receipts'. Receipts are defined in Section 89(1) of the SDA as "...any note, memorandum or writing whereby any money amounting to four naira or upwards, or any bill of exchange or promissory note for the money amounting to four naira or upwards, is acknowledged or expressed to have been received or deposited or paid...". This provision applies to all companies, wholesalers, retailers and petty traders.

In recent times, consultants who claim to have been appointed by The Nigerian Postal Service (NIPOST) have been writing to various companies requesting for an agreed time when they can visit them to conduct an audit into the payment of the applicable stamp duties on their receipts.

NIPOST had earlier in 2013 introduced a fee of N50 to be paid as stamp duties on bank tellers and electronic transfer receipts with values of N1,000 and above. NIPOST also provided a list of documents considered to be exempt from payment of stamp duties, they include: receiving cheques, drafts and any other negotiable instrument that are already duty stamped.

Recent Development

As part of the recent efforts by the federal government to boost the country's non-oil revenue base, the CBN via a circular dated 15 January 2016 revisited the stamp duty charge.

The CBN has directed all deposit money banks (DMBs) and financial institutions to commence the charging of N50 on all receipts issued in acknowledgement of banking transactions on electronic transfers and teller deposits from N1,000 and above. The directive takes immediate effect.

By the circular, the CBN instructs all DMBs to open an account which will be designated as NIPOST Stamp Duties Account into which all the stamp duties collected will be paid. The DMBs will in turn transfer the collected charges on a monthly basis to CBN.

The other financial institutions have been directed to remit their stamp duties collected to any DMB of their choice.

Exemptions to the Stamp Duties on Banking Transactions

The CBN circular exempts the imposition of stamp duties on

certain receipts, they include:-

1. Transfer from self to self, whether inter or intra bank i.e. transfers between accounts held by the same person.
2. Any form of withdrawals or transfers from savings accounts.



The Takeaway

The imposition of the stamp duty is based on section 89(2) of the SDA which makes it mandatory for all receipts to be stamped and evidence of such stamping to be denoted by an adhesive postage stamp. Section 5(2) of the SDA further states that where adhesive stamps can be used to denote the payment of duty, postage stamps may be utilised for that purpose. The above forms the legal basis for the imposition of the N50 stamp duty on transactions above N1,000 as the

Nigerian Postal Service Act empowers NIPOST to prescribe the amount of postage stamps.

The CBN does not have the power to impose or review stamp duties. It is therefore merely directing banks to comply. Any non-compliance should therefore not attract sanctions or fines from the CBN but penalties as stated in the SDA. Nigeria is experiencing a significant cash crunch due to the sustained fall in oil prices. Some commentators, including the International Monetary Fund (IMF) have suggested that the government takes steps to improve its public finances by increasing tax compliance and blocking leakages. It was also suggested that VAT rate should be increased from the current 5%. While the government is yet to review the VAT rate, the finance minister has made it clear that the government would be looking inwards to increase the revenue of the country as a whole. The CBN directive to enforce stamp duty is apparently a step by the government in this direction.

The scope of the coverage of the stamp duty based on this circular will be wide given that a lot of transactions will fall within or above the threshold. We expect to see enforcement of compliance on other eligible transactions beyond financial services.

The circular provides that the stamp duty charged is to be paid by receiving accounts only. This presupposes that employees may have to bear the charge when they receive their monthly salaries. It is however unlikely that government will be able to raise any significant revenue from the charges given exemptions and the fact that the duty is a fixed charge rather than ad-valorem. One major issue about the tax is its regressive nature as the stamp duty is a fixed rate rather than a graduated or ad valorem rate. This will therefore impact small business and low income individuals significantly more than large corporations and rich people. ●

★ *Culled from PWCNigeria Tax Alert*

The Naira: Under Pressure

By **EDWARD OLOWO-OKERE**

A country can maintain a stable exchange rate over time if it is able to meet all the demands for foreign exchange by its economic players. This normally entails that the country has adequate foreign exchange reserves and is able to spend the reserves. The adequacy of foreign exchange reserves itself depends on accumulation of reserves over time and ongoing earnings from exports and other sources.

Nigeria foreign exchange earnings and consequently reserves have over the years been inextricable linked to crude oil, the dominant Nigeria export commodity – Nigeria’s foreign exchange earnings from oil are estimated at about 95% of total earnings. It is therefore not surprising that the Naira value has come under serious pressure as a result of the fall in crude oil prices from a high of \$115 (Brent crude) in June 2014 to below \$30 in January 2015.

With the fall in oil prices, Nigeria foreign exchange reserves has expectedly come under pressure, especially given a steady foreign exchange demand from corporations and individuals. For example, within 9 months, i.e. between April 2015 and January 2016, the foreign exchange reserves fell from \$29.8bn to \$28.4bn, i.e. by about \$1.4. The current level of reserves could cover about 6 months of Nigeria’s imports bill – normally the reserves should be able to cover at least 9 months of imports bill. Also, as the crude oil prices have been falling, the gap between the interbank and the black market rates has been widening. The two rates, which were relatively very close until mid-2013, had since February 2015 set on a strong divergent path and now widened remarkably with the black market rate being about 50% higher than the official rate.

It is obvious that as oil prices are plunging and foreign exchange earnings are reducing, the foreign reserves could no longer support a steady demand for foreign exchange and with the

somewhat “rationing” in the official market, some organisations and individuals have had to be sourcing their foreign exchange needs from the black market, thereby putting a lot of pressure on that market where the exchange rate seem to more clearly reflect the forces of demand and supply, compared to the official rate. The restrictions introduced by the CBN – on imports of certain goods and access to foreign exchange by Bureau de Change – would tend to suggest that the CBN was trying to keep the demand for foreign exchange under control. The foreign exchange restrictions have obviously created some panics in the market and may have contributed to an acceleration in the fall in Naira value on the black market, with grievous consequences, e.g. the inability of some companies to source inputs from outside the country and the attendant impact on their outputs and jobs, lack of investors’ confidence and possible capital flight, etc. All these have a dampening effect on economic growth.

The Implications of the Naira Free Fall on the Nation’s Economy

The implications of the fall in Naira value on the economy are significant, especially given the psychological impact. The free fall in naira is capable of creating panics among investors and other economic players, which can trigger many actions with negative impact on the economy.

The free fall in Naira and especially the significant (almost 50%) difference between the official and black market rates may send bad signals to investors on the management of the economy. It is important for the government to consistently send the right signals to the market. Most investors would like to be reassured that the value of their investments would be protected and that if there are going to be fluctuations in the Naira value over time, this would be well managed, and their returns would more than

compensate for that.

Investors will most likely perceive the fall in Naira value as an indication of some significant weaknesses in the economy and read the government's response as either inappropriate or at best, inadequate to curtail the fall. Such a perception can result in a loss of confidence in the economy, thereby triggering actions that can have serious consequences for the economy. These actions include reduction in the flow of foreign direct investments (FDI) into the country and capital flight, as investors look for safer and stable environments. The significant decline in the Nigeria stock

The free fall in the Naira value is capable of creating significant distortion in the economy, especially given the widening and huge difference between the official and black market rates. Even with tight monitoring and control, arbitraging and round-tripping are inevitable in such a dual exchange rate systems with huge differential, thereby allowing individuals/businesses to profit without producing anything – just moving money around to make money

market over the last one year (or so) is indicative of the fact that some investors are reducing or exiting their equity positions in the Nigeria stock market. The stock market has lost close to \$20 billion of its value in the last year and it hit a three and a half year low this month. In the first couple of weeks this year alone, the stock market lost close to \$10 billion of its value, thereby qualifying the Nigeria stock market as one of the worst market performers this year.

The reduction in FDI flow to Nigeria will deny the country of the much needed injection of foreign capitals (together with the associated know-how) to help expand business activities and generate new jobs. Equally, the dumping of Nigerian equities by investors is capable of leading to loss of jobs in several sectors of the economy where foreign investors were hitherto heavily invested.

The free fall in the Naira value is capable of creating significant distortion in the economy, especially given the widening and huge difference between the official and black market rates. This would mean that the government and some companies would be able to procure foreign goods and services at one rate while the rest of the economic players would be sourcing foreign exchange at exorbitant rates on the black market. Even with tight monitoring and control, arbitraging and round-tripping are inevitable in such a dual exchange rate systems with huge differential, thereby allowing individuals/businesses to profit without producing anything – just moving money around to make money.

Some companies and service producers may also start reflecting the black market Naira value in their prices even when they are actually sourcing most of their foreign exchange

requirements from the official market. This would then be passed on to consumers in high costs, with the companies benefiting significantly at the expense of consumers.

The Way Forward for the Nigerian Government

The increasing wide margin between the black market rate – which is more reflective of the market forces of demand and supply – and the official rate of the Naira – which is more reflective of the government's decision to keep the Naira exchange rate within a certain determined range (of 197 – 199 to a dollar) –

clearly indicates that policy decisions, and the forces of demand and supply for foreign currencies in Nigeria are currently not aligned. The two needs to be aligned for any decision about the Naira exchange rate to be deemed rational.

Devalue or Not Devalue the Naira?

The CBN has two basic choices: (i) to continue defending the Naira at the current official exchange rate (of 197 – 199 Naira to a Dollar) or (ii) to devalue the Naira. The CBN has chosen the first option for now, and some of the impacts of that were discussed above. The CBN has justified its current approach on the argument that devaluation will fuel inflation. Under the current situation, inflation is rising and it is at a 3-year high. Nevertheless, the CBN's "inflation" argument is credible. If the Naira is devalued, the rise in inflation can be expected to be steeper. Nigerians

witnessed what happened in the 1980s following the devaluation of the Naira by the Babangida's regime. It led to the disappearance of a middle class from Nigeria. As a high school auxiliary teacher after I graduated from high school in 1982, I could afford to buy a fairly used car from my salary. In 1988 – few years later and after the Naira devaluation – with a higher salary of a university teacher I did not have the level of purchasing power I had in 1982.

However, the approach currently adopted by the Central bank raises a number of questions:

- Can Nigeria's foreign exchange reserve support the current official exchange rate in the foreseeable future? If not, then how sustainable is the current official exchange rate, and will the CBN/Government going not eventually capitulate and heed to market pressures?
- Is the huge (50%) difference between the interbank and black market rates desirable, and is the resulting distortion acceptable?
- What is the impact of the current CBN's approach on the investors' confidence in the Nigerian economy?
- What is the impact of the current greatly divergent dual exchange rates system on the domestic industries and private individuals whose access to forex is now somewhat restricted, etc.?

Given the obvious answers to the questions above, the issue then is whether the option of Naira devaluation is the most desirable. To address this issue, there is need to examine the challenges of Naira devaluation. A great challenge of Naira devaluation would be how to maintain the domestic value of the Naira (i.e. the Naira value within the borders of Nigeria) in terms of its purchasing

power. If the Naira cannot continue to command the same value in the country, then there will be a serious inflation as CBN has argued.

In a devaluation scenario, it is highly likely that Naira will suffer a loss of purchasing power domestically because of the following, amongst other things:

- Cost-push inflation. Nigeria is an import dependent country and the cost of imported products – finished products – will rise with devaluation. Also, the cost of goods and services with imported contents – raw materials – will rise, as producers pass increased costs of inputs to the consumers.
- Demand-pull inflation, as demands for domestic products increase in the face of a certain given supply, at least in the short term.
- The domestic economy is not currently capacitated to substitute, at least in the short to medium run, for many imported products even if the government were to introduce policies to immediately discourage their importation.
- The Nigerian factor. Producers of goods and services with no import contents will most likely take advantage of a devaluation to increase the prices of their goods and services. Even market women will advantage of the situation and increase the cost of tomatoes, pepper and okro, and the list of those who would take advantage of the situation is endless.

The loss of purchasing power of the Naira domestically will likely have several impacts, including:

- A fall in standards of living, due to higher costs of goods and services.
- Demand for higher wages by workers due to rising costs.
- Possible decline in companies' profitability, especially the multinationals who would need to convert the Naira back to the currency of the parent companies at a higher rate.
- Possible layoff of employees due to a decline in profitability and/or demand for wage increases by employees.
- Overseas travel and education would become more expensive.
- The Naira equivalent of the government external debt stock will rise and so would debt servicing – more Naira would need to be budgeted for capital repayment and interest charges. New external borrower would become more expensive in Naira terms. Overall, a devaluation is going to result in high cost of borrowing for the government.

On the positive side, devaluation could arguably stimulate the production of export commodities. This would, however, depend on the producers having spare capacity to increase production. In the case of Nigeria, this is an unlikely benefit of devaluation, at least in the short run. Moreover, due to structural issues Nigeria may not necessarily be able to reap the benefits of devaluation that normally accrue from exports. Devaluation will not necessarily make current Nigerian export commodities cheaper to foreign consumers or lead to an increase in demand because much of what are exported are priced in dollars. That is, a devalued Naira does not necessarily mean that crude oil, cocoa, palm oil, etc, would become cheaper to foreign buyers or that foreign markets would demand more of these products from

Nigeria. Assuming Nigeria produces a lot of industrial goods, may be it can then compete with other countries (e.g. the Asians) in the markets for these products, and reap some benefits from Naira devaluation.

So, the question is which of the two choices is better – devalue or not devalue? The fact that Nigeria is an import dependent country, relies almost solely on oil for earning – a commodity that the prices are not determined by Nigeria and changes in the value of Naira has no influence on how much of it will be demanded – make both choices challenging. Assuming the country has accumulated strong reserves as Saudi Arabia, UAE, Qatar, etc, and a strong rebound of oil prices is foreseen, an option could have been to continue to defend the Naira. However, as enumerated above, that is not the case.

Also, both the current approach and devaluation have several downsides, as enumerated above. However, considering that CBN

All things considered, a most plausible course of action is to bite the bullet now and devalue the Naira. That would be painful over the next few years but the economy, businesses and individuals will adjust overtime. We have seen that happen before. Also, the government should consider floating the Naira after any devaluation

cannot continue indefinitely to defend the current value of the Naira in view of the low foreign exchange reserves and falling earnings from crude oil; the current exchange control restrictions are undesirable and have serious negative impact on the Naira and the economy – industrial outputs, jobs, investors, stock market, etc – as mentioned earlier, devaluation of Naira seems unavoidable. So, it might be better for the government to bite the bullet and do that sooner than later to avoid further negative impact on the economy. Besides, some producers and service providers may have started reflecting the black market rate in their prices anyway.

There are several issues for CBN to consider in undertaking the devaluation. What is the ideal Naira exchange value, especially if oil prices are not likely to significantly rebound and/or prices were to decline further? Will the CBN devalue by a small percentage now (as it did late last year) and start debating/considering another devaluation in the next few months? What signals would repeated devaluations send to the market?

The devaluation could then be complemented with several measures, including measures that would discourage imports (e.g. raise import tariffs), and stimulate exports by lowering associated costs and providing incentives to export focused industries and to entrepreneurs to engage in the production of export products. Also, the government would need to incentivize entrepreneurs to move up the value chains in agricultural and

other sectors with export potentials so Nigeria can be exporting products up the value chain as opposed to raw materials. However, these are not likely to cushion the impact of devaluation in the short to medium term, as their effects would only be felt some years down the road. Also, the government would need to introduce a range of fiscal and monetary measures to mitigate the impact of the devaluation on the citizens.

It must be mentioned, however, that there is also a third choice for the government. The government could consider floating the Naira and let the exchange rates fluctuate based on the supply and demand of foreign currencies (with the government intervening, as appropriate, to smoothen the trajectory). Over time, that could help to better achieve its objectives of price stability (or at least avoid huge devaluation) than a fixed exchange rate where the Government undertakes one devaluation after another in response to accumulated market pressures. A floating arrangement would open the currency to gradual depreciation over time in cases of adverse economic situations, e.g. falling foreign exchange earnings, and (with appropriate government intervention) smooth out the effect of depreciation. Several oil producing countries with a floating system, e.g. Canada, Colombia, Mexico, Norway, etc, have avoided debates on devaluation and let their currencies depreciate, as appropriate.

Whatever the course of action the government takes, the followings are absolutely necessary:

- **Consistency in rules and policies.** Lack of consistency in rules and policies is bad for the economy. It sends the wrong signals to the market with undesirable consequences. A good example is the rule on domiciliary accounts that prevented banks from accepting deposits and withdrawals from customers in foreign currencies, and the subsequent reversal of the rule. The consequence of that is that bank customers are now weary of depositing funds into the domiciliary accounts. One can imagine that a lot of individuals are also afraid of transferring foreign currencies into their domiciliary accounts in Nigeria. Another example is the flip-flopping on the Bureau de Change's access to official foreign exchange market.
- **Avoid foreign over regulation and currency restrictions.** Some of the measures introduced by CBN may have created panics in the market and may be affecting the effectiveness of other measures, e.g. the banning of certain importation items. Yes, maybe these are not things that Nigerians should be importing but could some other measures like a higher import tariffs have made it unattractive to import those things than a foreign exchange ban. The tight currency controls introduced by the central bank to conserve foreign reserves have left everyone scrambling for dollars — and may have contributed to the free fall of Naira in the black market.
- **Good communication.** It is important for CBN to really engage and communicate with the economic players on the issues so they know the pros and cons of the options and that whatever decision is taken is in the long term interest of the economy even if it may be painful in the short term.

In conclusion, while the current market pressures make it untenable not to devalue the Naira, there are serious challenges

with devaluation. So, the Naira is clearly sandwiched between two hard rocks, and the choice of a course of action is not really as easy as some commentators may suggest. All things considered, however, a most plausible course of action is to bite the bullet now and devalue the Naira. That would be painful over the next few years but the economy, businesses and individuals will adjust overtime. We have seen that happen before. Also, the government should consider floating the Naira after any devaluation. This would help avoid debates on further devaluation (or even revaluation) in future.

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UNCTAD/ISAR Session on Sustainable Development Goals and Corporate Reporting

By ABEL AIG. ASEIN

PREAMBLE

On September 25, 2015 at the UN in New York, USA, President Muhammadu Buhari, GCFR joined 193 other Heads of State and Government to adopt the seventeen (17) Sustainable Development Goals (SDGs) which are to accomplish the unfinished targets embedded in the eight (8) Millennium Development Goals (MDGs). Driven by the philosophy of poverty eradication through economic empowerment of people, the SDGs seek to compel corporate entities to take responsibilities for the externalities associated with their productive activities such that the environment is preserved, protected and regenerated to support successive generations.

As targets to be pursued and achieved between years 2016 and 2030, the SDGs represent a challenge to governments, the private sector, civil societies and the whole of humanity. According to Mr. Ban Ki Moon, the Secretary General of the UN, SDGs represent “*The Road to Dignity by 2030*”. As part of its contributions to this global cause, the 32nd Annual Session of Intergovernmental Working Group of Experts of the International Standards of Accounting and Reporting (ISAR) of the United Nation Conference on Trade and Development (UNCTAD) which took place between November 2–6, 2015 in Geneva, Switzerland, was devoted to the SDGs.

ATTENDANCE

A total of fifty-two (52) countries, six (6) intergovernmental organizations (e.g., EU, ECOWAS, OHADA), ten (10) Non-Governmental Organisations, twelve (12) universities and twenty-four (24) professional accountancy organisations (PAOs) were in attendance. Global organisations like the World Bank, IFAC, IAASB, IASB, PAIB, FASB, PIOB, Basel Committee on Banking Supervision, Financial Stability

Board, Centre for Financial Reporting Reform of the World Bank, International Integrated Reporting Council, Group of Friends of Paragraph 47, United Nations Environment Programme, Global Reporting Initiative, Federation of Mediterranean Certified Accountants and Climate Disclosure Standards Board also attended and participated actively in the various sessions through their rich and thought-provoking presentations. The Institute of Chartered Accountants of Nigeria was represented by a delegation which comprised the Vice President, Deacon Titus A. Soetan, FCA (Team Leader); 2nd DVP, Alh. Rasaq Jaiyeola, FCA; Mr. Tayo Phillips, FCA (Hon. Treasurer); and Mr. Abel Aig. Asein, Deputy Registrar (Technical Services). A distinguished member of Council, Hon. Nasiru Muhammed, mni, FCA was also in attendance in his private capacity while Mr. Chidi Onyeukwu Ajaegbu, FCA (IPP) served as a resource person on IPSAS. ANAN was represented by a 3-man team.

OPENING

The 32nd session was declared open by the Secretary General of UNCTAD, Mr. Mukhisa Kituyi on November 4, 2015. Shortly

after his address, the Chair of the Financial Accounting Standards Board (FASB) of USA, Mr. Russell G. Golden delivered the keynote address in which he noted the significant steps that FASB and IASB have been taking to achieve the harmonisation of their accounting standards.

Prior to the formal opening of the Session, elections were held to elect the officers for the 2015/2016 ISAR year. Nigeria's Mr. Jim Obazee, FCA, Executive Secretary/Chief Executive Officer of the Financial Reporting Council (FRC) of Nigeria, presided over this session and conducted the elections. Ms. Vania Maria da Costa Borgerth, Special Adviser to

“The SDGs seek to compel corporate entities to take responsibilities for the externalities associated with their productive activities such that the environment is preserved, protected and regenerated to support successive generations”

the CEO, Brazilian Development Bank and Gerard Ee, President of Institute of Chartered Accountants of Singapore emerged the new Chair and Vice Chair/Rapporteur, respectively. It was a day of glory for Nigeria as Mr. Obazee was the electoral umpire.

TECHNICAL SESSION

On Monday, November 2, 2015, the subject matter of sustainability reporting using G4 guidelines was extensively discussed while the next day, the practical implementation challenges of IPSAS were considered based on the experiences of many countries. The Nigerian perspective was presented by Mr. Chidi Onyeukwu Ajaegbu, FCA (IPP). One of the resource persons for Day 1, Shivani Rajpal of Global Reporting Initiative, made her presentation on sustainability reporting through Skype as the huge fog in London disrupted international flights thereby making it impossible for her to make the journey.

During the main 32nd UNCTAD ISAR Session, a total of 34 technical papers were presented during the three-day conference on two main agenda items as follows:

- Key foundations of high quality reporting: international audit and assurance requirements and good practices on their implementation; and
- Review of good practices on enhancing the role of corporate reporting in attaining sustainable development goals.

Each day, the programme started at 10.00am and ended at 18.00 hours with two hours of lunch break. At the end of the first day, a cocktail was organised for all delegates on the wing of 8th floor of the complex overlooking France. The sky was a sight to behold in the night from this location. Most presentations were in English with translations in French, Spanish, Chinese, Russian and Arabic.

Main Agenda Item

The presentations on the agenda item titled *“Review of Good Practices on Enhancing the Role of Corporate Reporting in Attaining Sustainable Development Goals”*, brought to the fore the roles that chartered accountants working as preparers, auditors and business advisors can play to ensure corporate reports consistently and explicitly reflect financial and non-financial information in the annual financial statements of economic entities. To discuss these invaluable roles, it is imperative to give an insight into the thrusts of the SDGs, the new economic development mantra. Thereafter, we would consider the advantages of including non-financial information in financial statements in the true spirit of integrated reporting.

What are these SDGs?

As adopted by the 193 countries of the UN, the 17 SDGs are as follows: (i) *No Poverty*; (ii) *Zero Hunger*; (iii) *Good Health and Well Being*; (iv) *Quality Education*; (v) *Gender Equality*; (vi) *Clean Water and Sanitation*; (vii) *Affordable and Clean Energy*; (viii) *Decent Work and Economic Growth*; (ix) *Industry, Innovation and Infrastructure*; (x) *Reduced Inequality*; (xi) *Sustainable Cities and Communities*; (xii) *Responsible Consumption and Production*; (xiii) *Climate Action*; (xiv) *Life Below Water*; (xv) *Life on Land*; (xvi) *Peace, Justice and Strong Institutions*; and (xvii) *Partnerships for the Goals*. These key

goals have 167 other sub-targets which are derivatives of the main targets

The 17 Sustainable Development Goals rest on three pillars: People, Planet and Prosperity. If corporate entities carry out production and consumption activities reasonably and carefully without destroying the power of the earth to support successive generations, people will be empowered economically and prosperity will emerge globally. When people satisfy their physiological needs in a clean and healthy environment, their productive energy and creativity will not only soar irrespective of gender but also the gap between the rich and poor will shrink on a sustainable basis. Indeed, the cliché of the SDGs is, *“End Poverty, Protect the Planet and Ensure Prosperity For All”*. With the SDG instrument, the world, in the next 15 years would remain united against poverty, deprivation and environmental degradation such that the human race will collectively prosper.

The Place of Corporate Reporting

As it is common knowledge, corporate financial reports chiefly present corporate performance measured through the prism of financial indicators such as turnover, profitability, return on investment and the like. While the thrust of financial reporting has historically been to show the impact of directors’ decisions on corporate resources, it is increasingly becoming obligatory for corporate entities to cater to the needs and indeed, preserve the environment from which they derive their being as business survival strategy rather than charity.

As conceptualised and driven by the International Integrated Reporting Committee (IIRC), *Integrated Reporting* involves bringing together material information, including non-financial information, about an organisation’s strategy, governance, performance and prospects in a way that reflects the commercial, social and environmental context within which it operates. It provides a clear and concise representation of how an organisation demonstrates stewardship and how it creates and sustains value in the 21st century thereby meeting the growing information needs of its diverse stakeholders. Put simply, corporate financial reports must include financial and non-financial reports to be considered complete and comprehensive. Anything short of this will increase the expectation gap.

Accordingly, professional accountants must embrace this integrated approach to reporting that will capture the impact of financial, environmental and social factors on an organisation’s long term performance. Indeed, Integrated Reporting will help to raise the bar of accountability and transparency in corporate entities. It will also really help to bring together “the diverse but currently disconnected strands of reporting into a coherent, integrated whole, and demonstrate an organisation’s ability to create value now and in the future”. This was the thrust of the ISAR Session on SDG Agenda.

SDGs 1 and 12

The SDGs that are of critical importance to chartered accountants are 1 and 2. The SDG 1 sets out from the premise that the rate at which value (agricultural output) is created by people in rural areas is enormous. Yet most of these agricultural outputs are allowed to waste due to poor transportation and storage facilities. From season to season, farmers labour without realising the full

benefits of their efforts. As a result, these peasant farmers remain poor and hungry. Secondly, corporate entities also carry out activities that degrade and impair the fertility of the land, pollute the rivers which are the main source of rural water supply and thereby compounding the living conditions of the rural dwellers. As a result of these negative human actions, the SDG 1 seeks to eliminate these impediments by encouraging governments and corporate entities to invest in rural infrastructural facilities that will help the farmers optimise the benefits of their efforts while retaining the quality of the environment. To reinforce these aspirations, the SDG 12 encourages corporate entities to reflect such activities (be they financial or non-financial information) in their Corporate Reports for the benefits of all stakeholders.

During the conference, the ISAR Consultative Group on Corporate Reporting and Sustainable Development Goals chaired by Richard Martin, HOD, Corporate Reporting of ACCA, made

“Corporate entities must be in the vanguard of reclaiming the world from the precipice of poverty, deprivation and insecurity. Well catered for, humans will live healthy and productive life and shun all negative acts that can harm their neighbours and environment. Neglected, they will become societal risks”

a presentation on what the Group saw as the main task before chartered accountants. In their presentation, they emphasised Target 12.6 of the SDG which states that chartered accountants should, “encourage companies especially transnational companies to adopt sustainable practices and to integrate sustainability information into their reporting cycles”. In their view, the publishing of such reports will influence behaviours of stakeholders.

Since full disclosure is key to transparency, they urged the government and standard setters to compel organisations to link their corporate objectives and strategies with SDGs. While asking the Board and management to set the right tone at the top, the group urged the Audit committee, external auditors and the market to put greater premium on full and timely disclosures, high-quality and credible financial and non-financial reports. They urged the society, consumers, etc, to make SDG issues material enough to occupy the front burners in the board rooms. While admitting that corporate reporting is an imperfect vehicle for the society to monitor SDGs, the group recommended that the new models of reporting being advocated by IIRC and FEE should be embraced and strongly encouraged.

In her thought provoking presentation on the subject matter, Ms Lois Guthrie, Executive Director, Climate Disclosure Standards Board, noted that there was need to provide decision useful information to the markets via the mainstream corporate reports. Pursuant to this, her Board has created a common

framework for mainstreaming reporting to financial markets while it is imperative to analyse the enabling environment for consistency gaps and opportunities. She painted an interesting picture of how organisations should measure corporate performance: full compliance to regulatory and legally imposed requirements; achievement of company’s determined targets (based on corporate strategy, stakeholder feedback and company determined materiality); and SDG determined goals based on societal and planetary needs and UN determined materiality.

The import of her analysis is that while corporate entities strive to comply with legal and regulatory requirements as they pursue profits with corporate strategies, the UN wants them to care for the people, provide for the needs of society and the planet. With this, the contributions that organisations make to SDGs can readily be assessed if set against agreed parameters. She therefore recommended that the expected outcomes should be properly defined while financial reporting standards set by IASB, the Corporate Governance Codes set by FRC, the management control and risk reporting frameworks set by COSO, etc, should be coordinated to advance the course of SDGs. These initiatives, according to her, should be reinforced with the power of information. In her words, we must reach out to all stakeholders aggressively and consistently while the Finance Community must be encouraged to finance the initiative.

CONCLUSION

The thrust of the SDG Campaign is that the corporate entities must be in the vanguard of reclaiming the world from the precipice of poverty, deprivation and insecurity. Well catered for, humans will live healthy and productive life and shun all negative acts that can harm their neighbours and environment. Neglected, they will become societal risks. Global prosperity will naturally evolve, if the earth is not degraded and is able to support future generations. Therefore, chartered accountants as purveyors of information needed to take economic decisions, should ensure that non-financial information becomes material enough to be included mandatorily in annual corporate reports.

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★ **Mr. Abel Aig. Asein is the Deputy Registrar, Technical Services, The Institute of Chartered Accountants of Nigeria. He was a delegate to the Geneva Conference.**

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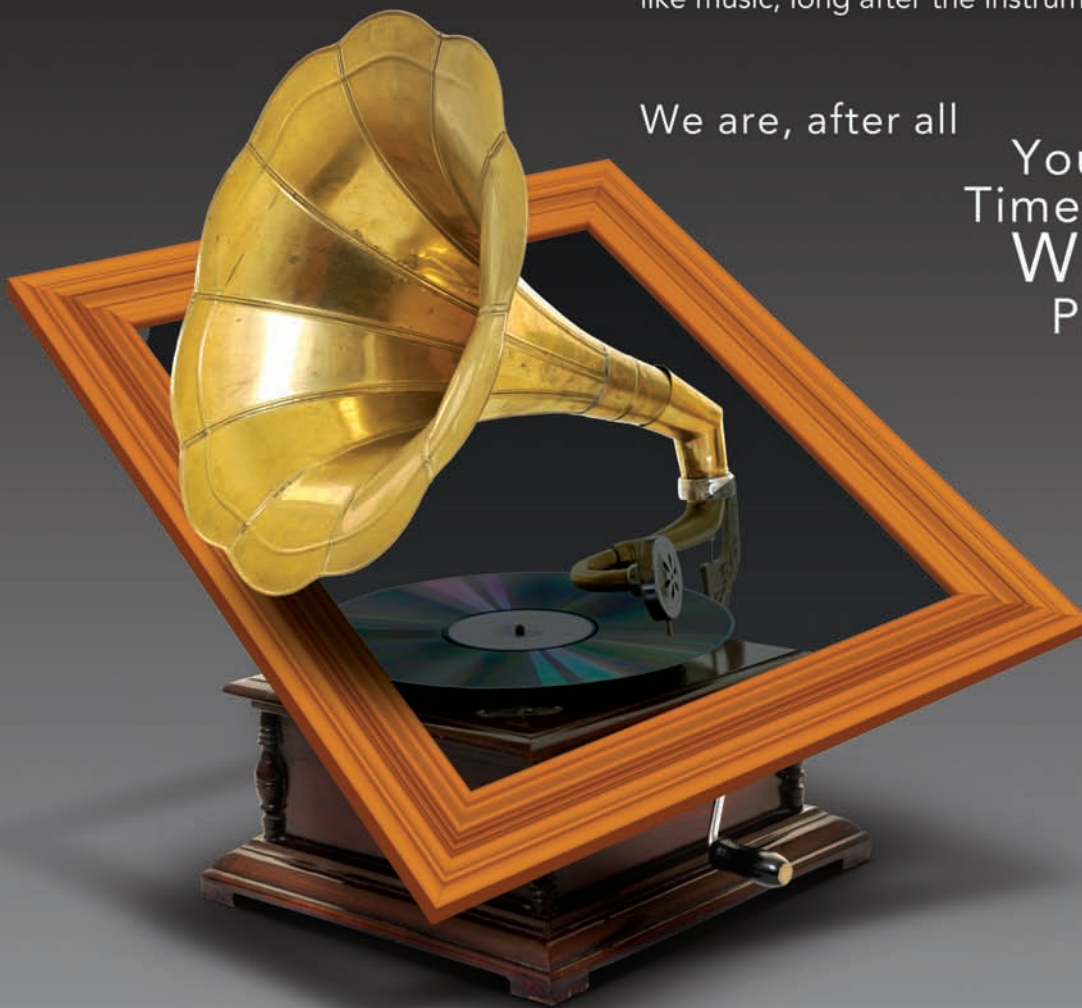
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