

A background image featuring a pair of golden scales of justice on a wooden surface, with several books stacked nearby. The scene is dimly lit, creating a professional and serious atmosphere.

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Review

Code of conduct tribunal proceedings and related constitutional issues

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Servants of the public are themselves masters of themselves. The striking paradox of consequence of corruption has placed a high degree of proof on public officers who retain the level of fairness that match with the degree of the onus. The issue of corruption is not restricted to the dark hallways of government offices but officers who are under duty to enhance the society have rendered in tatters the entire sacrosanct mainstay of common good. This paper attempts to explore the Code of Conduct Bureau and Tribunal Act 2004. For the writer, the procedural form and provisions of the Act has inalienably invited constitutional problems. The case of *Nwankwo v Nwankwo*¹ that has set a limit of locus in action under the Act was reviewed. The paper identifies widespread discrimination in the enforcement of code of conduct for public officers in Nigeria. As part of recommendations the paper advises that the basic text of strong discipline in public service is the extent to which officials are being trained and tried for uncomplimentary relationship between the code and the judiciary. So the restriction of access to the tribunal at the detriment of individual with a cognizable interest is fatal to a regime committed to instilling discipline in public service.

Key words: Code of Conduct, constitutional issues, right and problems.

INTRODUCTION

Failure to declare assets in Nigeria is a rule instead of the exception. The agency powered² to collate assets declaration form is the Code of Conduct Bureau. The Code of Conduct Bureau (hereinafter referred to as the "bureau") is a sister agency to the Code of Conduct Tribunal (hereinafter referred to as the "tribunal"). The Code of Conduct Bureau and Tribunal Act (hereinafter referred to as the "Act") carries the aura to desit the nauseating odor of corruption in public service in Nigeria and replace

same with a system of accountability and responsibility cutting across institutions and arms of government. The monitoring and enforcement of assets declaration by public officers being the primary responsibility of the agency is a constitutional requirement for public officers including members of the executive, judicial and legislative arm of government.³ The declaration of assets by public officers is the fulcrum of compliance to the code of conduct of public officers. A basic text of strong discipline

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in public service is the extent to which officials are being trained and tamed for complimentary relationship between the rules of the code and service.

Trial procedure at the tribunal

This is the process by which public officer⁴ accused of breach of the code is arraigned and tried.⁵ Before trial commences, the bureau initiates investigation on its own or after receipt of complaint with necessary investigation,⁶ bundle⁷ the public officer involved to the tribunal. The pre trial application of the bureau to the tribunal is ex parte in nature and the tribunal is powered by the Act to issue warrant of arrest against the accused based on the face of the allegations filed by the prosecutor.⁸ The compelling appearance⁹ of the accused leaves much to be desired, considering the responsibility of public officers in the development of any nation. The common object of the summary application is to bring the suspect before a Commission of Enquiry (*Ikone v Commissioner of Police /1986*) and not for the purpose of determining the guilt of the accused. Every citizen is entitled to right of personal liberty¹⁰ under the constitution and no person shall be lawfully denied of this right by means of arrest or detention. An efficient and effective criminal justice administration founded upon the basic principle of law and justice and propelled by a vibrant and seamless judicial process, is without doubt, the sine qua non for egalitarian society. This is a society where respect for rule of law, due process, human rights and democratic ideals holds sway, as envisaged under the Nigerian Constitution (Frank, 2009).

Criminal summons is an alternative to warrant of arrest. It is usually issued in respect of misdemeanour. It may also be issued if the person whose attendance is required is not likely to refuse to attend the court (Bryan; *Black's Law Dictionary*, 6th Edition). It is not every case or complaint against a public that deserves the deployment of warrant of arrest. It is my submission that the use of warrant against a public officer is oppressive seeing that the benefit that may flow from enforcement or the penalties that are likely to be ordered may not be justified by the costs involved in securing attendance. Breach of the code is not a capital offence and any law that creates warrant of arrest for non capital offences goes with bail endorsement.¹¹ An arrest order without a provision for bail bond is an infringement on the constitutional rights of public officers.¹² Even though the Act presumes that the accused is guilty of corruption on any allegation of contravention of the code, I submit that it is not at the pre trial stage.

Whether a reasonable man acting without passion or prejudice would fairly have suspected the arrestee of having committed an offence is determined by the application supported with summary of evidence and affidavit made by the prosecutor and also the explanation of the

suspect. Where the suspect reasonably explains the situation and contradicts the application of the prosecution, at least at the material time, any detention in that circumstance has no foundation on reasonable suspicion and it may be unlawful. Agree that the proof of reasonable suspicion is on probability but the onus rest comfortably of the prosecution. An examination of the powers, provisions and trial procedural in the Act show the trappings of a criminal trial.¹³ The essence of developing a gauge for reasonable suspicion and arrest is to prevent abuse of powers and infringement of rights and undue harassment, victimization and sustenance of judicial esteem. In the tribunal proceedings, the witness seems to be of more value than the accused person. In *Ikonne v COP*¹⁴ the Supreme Court held that the conduct of the Judge in issuing the warrant of arrest upon what was obviously a fictitious reason, had the undesirable effect of denigrating the judiciary in the eyes of the public and of eroding the confidence of people in judicial process and the rule of law. The deterrence value becomes uncertain particularly if the persons most likely to be prosecuted are without resources or standing. The tribunal must allow suspects to access their counsel at the point of arraignment.¹⁵ This right is the gate way to the realistic exercise of all other rights of citizen.¹⁶ It must also be noted that the suspension of a public officer by the bureau pending the decision of the tribunal will not amount to breach of right to fair hearing, (*Esiaga v UNICAL (2004)*)¹⁷ so long as the suspension was running before the charge was made in the tribunal.

Frame of fair hearing at the code of conduct tribunal

Fair hearing is not only a common law requirement but also inherent in rule of law and attracts the aura that inaugurates natural justice characteristic of a judicial process. It is a statutory and constitutional right.¹⁸ The foretaste of this rule in Nigeria was made manifest in *Garba v UNIMAID* where the Supreme Court held that the rules of natural Justice must be observed in any adjudication process by any court or tribunal established by law.¹⁹ Fair hearing under the Act means that the accused shall not only have the opportunity to present evidence in his favor, but shall be expose to the evidence of the prosecution challenging his own, so that at the conclusion of the hearing, the tribunal may be in a position to know all of the evidence on which the matter is to be decided.²⁰ The absence of judicial division of the tribunal accounts for the cross- country and laborious trial for the accused which in turn affects substantially the rights of the accused under the law. A public officer who breaches the code in state other than its present posting cannot all be tried in Abuja. All actions against a public officer and suits for penalty or forfeiture is commenced and tried in the Judicial Division of the Court in which the cause of action arose.²¹ The essence of trial within a

jurisdiction where action arose culminates in a stress free environment. I submit that it is not only a constitutional requirement but a subtle condition for fairness. In the case of **R v Benbrika and Ors**²² the Supreme Court of Victoria held that the circumstance in which the defendants were being transported meant that they were subjected to undue stress such that the conditions rendered the trial unfair.

All public officers are mandated under the law and the Constitution²³ to declare all his properties, assets and liabilities and those of his spouse or unmarried children under the age of 21 years. Where a tribunal finds a public officer guilty of contravention of any of the provisions of the code, the tribunal shall impose upon that officer any of the punishment specified in par 18(2) of the 5th Schedule 1999 Constitution which include: -

- (a) Vacation of office or seat in any legislative house as the case may be;
- (b) Disqualification from membership of any legislative house, as the case may be, holding of any public office for a period not exceeding 10 years and
- (c) Seizure and forfeiture to the state of any property acquired in abuse or corruption of office.²⁴

Will it be fair for the tribunal to order for forfeiture of money traceable to an account bearing a separate name from that of a public officer without hearing from the bearer of the account? It is my submission that children's gift cannot be said to be assets of the parents, save tied to or linked with assets declaration form or proceeds of office of the accused. It will also be unfair and unconstitutional for a tribunal to make an order against the assets of a spouse or child not joined as a party in the suit. In similar vein, the thought that assets of unmarried children or children below the age of 21 years²⁵ are that of the parents militates against the right of children to own immovable property in the Constitution.²⁶ It is no doubt that where a public officer has corruptly enriched himself the appropriate authority²⁷ would direct under the law that the funds so misappropriated be refunded by such an officer (*Tyonzughul v A.G. Benue State* (2005)). Various laws²⁸ empowers agencies in Nigeria to invite public officers to furnish them a statement on oath on how they own, possess any interest in property which is excessive having regards to his present, past emoluments and all other relevant circumstances.²⁹ There is a presumption of corrupt enrichment on all public officers.³⁰ The court or relevant tribunal has the power to order for the forfeiture of property or proceeds of crime of all public officers who failed to rebut the presumption of corrupt enrichment, breach of the code and abuse of office. A significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions is nothing less than corrupt enrichment. The onus to prove that the property own by family member of a public officer is corruptly acquired is on the prosecution, this is so because the right of an individual to own property is

fundamental right. The burden of proving of infringement of fundamental rights is on the infringing authority and in this case the prosecution (*SSS V Agbakoba* (1999)). The tribunal is under the constitution mandate to investigate assets declaration made by public officers, investigate the assets acquired in the name of family members and sue them appropriately³¹ and respectively³². Specially, where the forfeited property constitutes evidence of the subject matter of the offence, there will be forfeiture of the proceeds of crimes to the state under the Act and Criminal Code.³³ This is in addition to additional penalty that may be imposed.³⁴ For an order of interim forfeiture to be granted by the court, the onus to prove the link between the alleged offence and the property is on the prosecutor.³⁵ The variations of conviction based forfeiture in Nigeria are forfeiture of proceeds of assets acquired through proceeds derived from the offence of conviction. The second is where statute imposes pecuniary penalty or authorizes the forfeiture of assets equivalent to the penalty from the offence. And lastly, subject to forfeiture all traceable assets of the convicted person (*Adedeji Adekunle* 2011). Under our law, convict of financial crime may forfeit to the Federal Government properties obtained directly or indirectly as a result of such offence not disclosed on assets declaration form.³⁶ The constitutionality of forfeiture was put to test in *Nwaigwe v FRN*³⁷ The court held that forfeiture of property by accused is constitutional since the court can revoke the order anytime. The primary essence of forfeiture order is to stop the accused from transferring or disposing off the proceeds of crime (*Abacha vs FRN* (2006)).³⁸ The guiding principle is that the action and parties must be before the appropriate court or tribunal.

Burden of proof placed on the accused: constitutionality or otherwise

Abuse of power has assumed both national and international priority (*Niki Tobi* 2008). In an ideal society the profligates that we have in the wheel of governance in the name of public officers cannot be there. It is no news that the pulling force of citizens to appointive or elective offices is spur by an endless and mindless cash kitting. According to **Oyebode**³⁹ all most everybody in Nigeria is corrupt; they all leave above their income. The struggle for the control of state power is largely to enhance the predatory access to resource windfall (*Olowu, Kayode* 1995). Hardly a day passes without some new and shocking evidence emerging that corruption is alive and well in public service. Public officers are proud to hear of their complicity and the resultant hatred the people which they wear like a badge. So the Act in his magnanimity presumes all public officers to be the looters of the national treasury unless the contrary is proved.⁴⁰ The onus of proof that the accused is guilty still lies on the bureau at the time of making the complaint to the tribunal.

A petition on oath that is idle and unproved requires timorous denial for same to establish a case of damages against the prosecuting agency. Though those who disregard the oath of office have the onus of prove to be fit to continue to discharge the trust reposed on them, yet the presumption of innocence of an accused is sacrosanct in any offence under Nigeria laws.

The Court of Appeal in *Wabara and 2 Ors v FRN*⁴¹ while commenting on section 53 (1) of the *ICPC Act 2000* held that the presumption of corruption is unconstitutional being odd with the requirement of section 36 (5) of the *constitution*. While I agree that accused persons as long as he remains guilty needs equal protection as other victims of crime or other accuser of its status, It is my humble submission that civil proof of probability by the accused to rebut allegation of abuse of office or failure to declare assets is allowed to prove that the property or assets acquired was not in contravention of the code.⁴² Where a public officer asserts that he complied substantially with the code of conduct, he has the evidential burden of proving same. The tribunal takes judicial notice⁴³ of the effortless confetti of guilt worn around by public officers. A public officer charged with offences relating to failure to declare his assets cannot be prevented from disputing the incorrectness by offering evidence like assets declaration form and or pay slips. Arguably where failure to declare assets is used in the counts, the *mens rea* of the offences charged is embedded and disclosed therein.⁴⁴ It will whet the edge of venality if the guilt of an accused over failure to declare assets is on the prosecution.

This burden of proof enunciated by the Act may be discharged as soon as the accused introduces acceptable evidence showing balance of assets and income or reasonable compliance with the code of the conduct. The burden of proof shifted on the accused does not violate existing law in our practice and the law of evidence, but proof as to any particular facts lies on that person who wishes the court to believe in its existence.⁴⁵ Similarly, even though an accused is presumed corrupt until the contrary is proved, breach of the code cannot be established by looking at only the charges or documentary exhibits tendered.⁴⁶ In the case of *Ereku v Queen*,⁴⁷ the court in one of the first corruption charges in Nigeria held that failure to call or explain the absence of a witness one who had been requested to do the bribery, receipt of which formed the subject matter of the count of corruption was fatal to the count. It is needful that petitioner or investigative officer in the bureau be invited to the tribunal to give evidence failure of which may render the allegation fatal and unproved. The accused with the leave of court will be allowed to adduce further evidence to rebut the evidence of the prosecution on a new issue arisen even after they both closed their case.⁴⁸

There are two distinct and frequently confused meaning of burden of proof. There is proof in the sense of introducing evidence and proof as a matter of law and

pleadings (*Buhari v INEC (2008)*). As regards the burden of proof in this Act, for the accused to discharge the onus, recourse will be made to the substance of the offence. Where the accused is charged of illegal accumulation, the item or facts constituting the ingredient of the offence are peculiarly within the knowledge of the prosecution and the burden of proving same lies on him⁴⁹ independent of the merit of the exercise. It is only at the discharge of this onus by the accused that the court would come to the conclusion that the alleged breach was not done with the aim of earning or accumulating wealth illegally or that the assets profile of a public office is not influenced by ill-wealth (*Swem vs Dzungwe (1960)*). This position is neither trite nor arid but a basis of contemporary judicial precedence. With an élan of informed jurist in an arcane world of practice and procedure, Niki Tobi JSC in a paper titled 'the *rule of law and anti-corruption crusade in Nigeria* (9th Justice Idigbe Memorial Lecture held at Akin Deko Hall, University of Benin, on 6th of August 2008) drove a comprehensive nail on the intractable ghost of onus of proof in anti – corruption cases. He has this to say;

The burden of proof is on the prosecution to prove the guilt of the accused beyond reasonable doubt. The same cannot be said of section 3(2)(3) of the Money Laundering (Prohibition) Act 2004 which provide that individual and body corporate shall be required to provide proof of identity in money laundering related cases. The above principle is consistent with section 139 of the Evidence Act which provides that the burden of proof as to any particular fact lies on that person who wishes the court to believe in its existent.

It is my sube4rd4344mission that the constitutionality of burden of proof on the accused is a mixed canvass of virtue and villain. *Section 15 (3) of the Act* save in limited exceptional cases is not inconsistent with the constitutional presumption of innocence,⁵⁰ since the discharge of the onus does not depend on proof beyond reasonable doubt or preponderance of evidence but on moral certainty or balance.⁵¹ A conviction of honour and good sense is sufficient, the accused need not establish a prima facie case of compliance to the code, evidence of reasonable or prospective compliance with the code should not be disregarded by the tribunal unless there are stronger proofs of evidence against it.

Another justification for the onus of proof on the accused denotes that the tribunal cannot come to the conclusion only on the evidence of the prosecution to confirm the guilt of the accused. Since the tribunal is bound by its own rules there should be a fragile onus of disprove of facts within the knowledge of the accused. For instance false declaration and non compliance with the code is by their nature imputation of crime. The production of certified true copies of assets declaration form discharges and shifts the perennial onus of moral allegiance on the prosecution. Similarly, an allegation that

a public officer is a cultist must require the prosecution to prove that the public officer promotes a cause or purpose that foster his or her personal or group interest without due regard to merit or fair play (Orji v Ugochukwu (2009). The reverse will culminate in breach of fair hearing and can vitiate the entire trial for non compliance with the rules of natural justice.⁵²

Non applicability of immunity in code of conduct tribunal proceedings

Immunity is available for certain elected officers⁵³ with the aim of ensuring that public officers are not distracted from performing their statutory roles with frivolous litigations. The proceeding of the code of conduct tribunal is allergic to immunity. In *IMB Security PLC v Bola Tinubu*⁵⁴ where the court held that the defendant who was then a state governor was immune from legal proceedings.⁵⁵ In the case of *FRN v Kalu*⁵⁶ the accused was charged for breach of the code in his capacity as a serving governor of a state. The tribunal in her ruling dismissing the application held that the accused was not protected by the immunity clause in the constitution.⁵⁷

Breach of code, abuse of office or corruption is a crime against the state like other criminal offences and the perpetrators deserve no discriminatory persecution. Many public officers have by abuse of power so massively enriched themselves that they wield enormous social and political power and have become threat to stability of the nation's polity.⁵⁸ For a country where the colour of her passport describes corruption⁵⁹ and constant as the Northern star on the world corruption index (Igbinoia .P. Edobor 2003). A frail understanding of the scope of code of conduct may culminate in miscarriage of justice as corruption is breach of code but breach of code is not exactly corruption.

Locus standi rule: Infraction on public interest litigation

It is the Attorney-General of the Federation (AGF) or other officers in the ministry⁶⁰ that has the *locus standi* to prosecute a case of breach of code of conduct.⁶¹ Prosecution for offences under the Act will be deemed to be done with the consent of the Attorney General.⁶² The earliest case to establishing *locus standi* to institute action relating to code of conduct was in *Nwankwo v Nwankwo*.⁶³ The fact of this case is that the parties were divorced couple and one of the matters in dispute was the proprietorship of a registered firm. When dispute arose the wife contended that since the husband is a civil servant by *par. 2(b) of the 5th Schedule to the Constitution*, he should not engage or participate in the management and running of any private business, profession or trade. The Plaintiff (wife) asked for an

injunction restraining the husband from interfering in the management of the firm. The Supreme Court held that the constitution do not create a private right or interest for which the plaintiff could claim a relief.

The people's involvement in the fight against corruption has numberless legal and administrative bottleneck (*The Guardian*, Tuesday, August. 21, 2007). Any law that restricts the participation of the people in the process of judicial resolution aids corruption and judicial abuse.⁶⁴ It leaves adjudication in the hands of politically constrained public authorities which may be tempted to prioritize public interest litigation according to logistics and political selection. In *Nwankwo's case*, despite the justiceable claim, the plaintiff was restrained by statute.⁶⁵ The legal issue around conflict of interest was unanswered owing to want of standing. It is reiterated that by *par. 2(b) of the 5th Schedule to the Constitution* that no private citizen can enforce a right under the Act against a public officer. I am tempted to state assiduously that the plaintiff satisfied the traditional *standi* doctrine under the Act. There is no dispute as to the fact that there was mixed fund between the parties, also that the transaction between the parties was contractual and statutory⁶⁶ and lastly that the interest of the plaintiff was higher and greater above that of the general public.⁶⁷ Therefore the right of the plaintiff to sue to protect his interest is not only unassailable but the established injuries by the plaintiff also demand a remedy.⁶⁸ Seeing that the plaintiff raised issues which deserve judicial resolution, *par. 2(b) of the 5th Schedule to the constitution* is ultra vires as same made the private rights of the plaintiff vulnerable. Any statute or part of it that inhibit a legitimate interest in obtaining a decision against an adverse party in public law related proceedings can be declared unconstitutional by the court.⁶⁹

The constitutional priority that citizens observe the law should require the tribunal to enforce the law whenever she is seized of proceedings which establish that a public officer has disregarded the code of conduct; because all citizens have unpliant interest in being loyal and promoting rule of law. To permit no one to claim is to simply allow possible illegality to continue. As far as *Nwankwo's case* is concerned, the option open to the tribunal was to strike out the paragraphs challenging proprietary rights of the claimant⁷⁰ and decide the constitutional issues bothering on the code of conduct for public officers.

RECOMMENDATION

The Act bestowed the tribunal with the sole duty of determining the rights and duties of parties where the need arises. The law encourages the bureau to "cabalize" the process and effectively frustrate any interested party in code of conduct related proceedings. Enforcement of code of conduct for public officers in Nigeria has a

widespread anti-people status. Striking features of countries where assets declaration is a culture is that the tribunal or courts have become an important arena for the pursuit of economic rights for developmental outcomes with lenient criteria for *locus standi*. This scum provision is undemocratic, satanic and a threat to right of access to court in the constitution.

CONCLUSION

The space should be widened to allow individuals file a case against a public officer in the code of conduct tribunal for cases relating to breach of the code. The right to access the tribunal should depend on the grant of leave by same upon the receipt of petition and disclosure of evidential proof. This will obviously sieve the wasteful petitions which could scoop the judicial process of its resources. The restriction of access to the tribunal at the detriment of individual with a cognizable interest is fatal to a regime committed to instilling discipline in public service. The constitutional priority that citizens should observe the law requires court or tribunal to enforce the law by ensuring adequate number of judicial officers in each tribunal in various states for effective and timely running of proceedings.

The onus of proof on a public officer knocks off the bottom out of natural justice in the Act. The Act should replace onus of "prove" with "disprove". The sublime effect of this adjustment is that even in the absence of the accused, the tribunal cannot come to the conclusion only on the evidence of the prosecution to confirm the guilt of the accused. To discharge this onus of "disprove" of moral uncertainty it will be sufficient that the accused deploy circumstantial evidence which may be slender but compellable. A measure of proof by the accused is inevitable for an anti-corruption effort to flounder noticeably. For the trial proceeding in the tribunal to be balance, the onus on the accused should be that of disprove which undoubtedly is canonical and will wear down the resistance of the accused but will not play down on its constitutional protection.

REFERENCES

- Niki T (2008). "The rule of law and anti corruption crusade in Nigeria" paper delivered at 9th Justice Idigbe Memorial Lecture on Wednesday 6th August at university of Benin p.18
- Adedeji A (2011). "Proceeds of crime in Nigeria: Getting our Act Together", NIALS, Lagos: Nigeria pp.10-11.
- Olowu D, Kayode A (1995). (eds), Government and Democratization in Nigeria, Lagos: Spectrum Books Ltd, p.3.
- Ikone v Commissioner of Police (1986). 4 NWLR where the Supreme Court held that when the Judge issued the warrant of arrest he was acting in his capacity as a Chairman of Judicial Commission of Enquiry and not as a Judge. (36):473
- Frank A (2009). Rights of Suspect and Accused Persons under the Nigerian Criminal Law, Crown Law Publications: Lagos 342p. http://books.google.com.ng/books/about/Rights_of_Suspects_and_Accused_Persons_U.html?id=YeRmcgAACAAJ&redir_esc=y
- Brian WG, Peter SE (1991). Attorneys at Law. Department of Health ... will cease to exist. Black's Law Dictionary (6th Edition), p. 1436.
- Esiaga v UNICAL (2004). Suspension of a Student: Whether suspension of a student in a University is a charge of criminal offence 7 NWLR (pt. 872):366.
- Tyonzughul v A.G. Benue State (2005). 5 NWLR (918):226
- Agbakoba SSS V (1999). 3 NWLR (Pt. 595) 314 paragraph A-B, para H. pp. 371:373.
- ¹ Multiple forfeiture proceedings is not a breach of the constitution as forfeiture proceeding is not trial. See Abacha vs FRN (2006) 4 NWLR (pt. 970) 239 @ pp.300-301.
- Buhari v INEC (2008). 9 NWLR, Elemo v Omolade (1968) NWLR 359 p. 1190
- Swem vs Dzungwe (1960) 1 SCNLR 9th Justice Idigbe Memorial Lecture held at Akin Deko Hall, University of Benin, on 6th of August 2008 111:303.
- Orji v Ugochukwu (2009). 14 NWLR p.1161
- Igbinovia PE (2003). 'The Criminal In All of Us, Whose Horse Have We Not Taken'. An inaugural lecture delivered at the University of Benin, Nov 27th. p.38.
- Salibu M, Alpha B (2007). (JCS) "How to Strengthen EFCC and ICPC", *The Guardian*, Tuesday, August. 21, p. 81.
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- ¹ (1995) 5 SCNJ P.44
- ² By the Constitution of Federal Republic of Nigeria 1999 and Code of Conduct Bureau and Tribunal Act LFN 2004 Cap C51
- ³ Sections 52 (1), 94(1) (2), 140 (1), 149(1), 172(1), 189(1) of the Constitution of Federal Republic of Nigeria 1999
- ⁴ A public officer is a person whose emolument is constitutionally provided for. See The Laws of Edo State of Nigeria, Vol. 5. Cap P 5, 2007. In Asogwa v Chukwu (2003) 4 NWLR (pt 811) the Supreme Court stated that politicians, civil or public servants are all public officers only for the purpose of the Code of Conduct Bureau. Note that for the purpose of dismissal, removal or compulsory retirement, a civil servant is a public servant but not every public servant is a civil servant. See Oloruntoba-Oju v Lawal (2003)17 NWLR (Pt. 848) 67
- ⁵ The rules and procedure of regular courts are mostly adopted in the tribunal including charges and evidences. See the procedure set out in the Code of Conduct Tribunal Rules of Procedure and 3rd Schedule, Cap C15 LFN 2004. In situation where the enabling rules of procedure are salient on any issue, the rules in the Criminal Procedure Act or Code are applied. See Cap. C.38 Laws of the Federation of Nigeria 2004 (applicable to the Southern part of Nigeria) and Cap 89, Laws of Northern Nigeria; 1964 (applicable to Northern states of Nigeria) are applied. See Par. 18(5) of the 5th Schedule of the Constitution of Federal Republic of Nigeria 1999.
- ⁶ The bureau studies the allegation and prepares their charge together with available evidence. The evidence the prosecution intends to use in proving the guilt of the accused is served on the accused and he/she is also given reasonable time to consider same and prepare a response. See Para 5 (1) of the 3rd Schedule to the CCB Act. It does not matter that the accused did not receive original copies of the charge sheet.
- ⁷ After the perusal of the application and the summary of evidence, affidavit or any further evidence in such form as the tribunal may consider necessary; the tribunal shall cause the person to be brought for trial. See Par 2 of the 3rd Schedule of the Act
- ⁸ The warrant is rightly issued by the Judge upon receiving a complaint on oath in compliance with section 23 of the CPA
- ⁹ Paragraph 2 of the Rules of Procedure of the 3rd schedule to the Act
- ¹⁰ Section 35 of the Constitution of Federal Republic of Nigeria 1999
- ¹¹ See section 31 of CPA and section 64 of CPC
- ¹² See Sections 34, 35, 36 and 41 of the Constitution of Federal Republic of Nigeria 1999
- ¹³ FRN v Atiku and 2 Ors; Charge No: CCT/NC/ABJ/06, pg 3. The use of the words like trial, accused, punishment, offence, prosecution, charge, guilty, etc may give an impression that the contravention of code of conduct constitutes the commission of a crime. Expression used in the Act may suggest criminal proceedings; the contravention cognizable by the tribunal is not criminal offence. See FRN v Orji Kalu Charge No. CCT/NC/ABJ/KW/03/3/05/MI p. 23

- ¹⁴ (1986) 2 NSCC 1130 @ 1145
- ¹⁵ Section 35 (2) of the Constitution of Federal Republic of Nigeria 1999
- ¹⁶ Agbedo Frank (Ibid) p. 184
- ¹⁷ *Esiaga v UNICAL* (2004) 7 NWLR (pt. 872) 366 where the Supreme Court held that since the appellant was not charged but only suspended pending a date he would be invited to appear before a disciplinary panel there was no breach of the right to fair hearing.
- ¹⁸ See section 33 of Constitution of Federal Republic of Nigeria 1999, Article 14 (1) of the International Convention on Civil and Political Rights, 6 (1) Of the European Convention on Human Rights (ECHR), 24 (1) Charter on Human Rights and Responsibility Act 2006, sec 21 (1) of the Human Rights Act 2004
- ¹⁹ (1986) 1 NWLR Pt. 18 P. 550
- ²⁰ Ibid
- ²¹ See Order 2 Rule 3 of the Federal High Civil Procedure Rules 2009
- ²² No.20 (2008) VSC 80
- ²³ See 3rd & 5th Schedule to the Constitution of Federal Republic of Nigeria 1999, and Code of Conduct Tribunal Act (2004)
- ²⁴ See *Omware v Omisore* (Ibid)
- ²⁵ Section 15 (1) of the Act
- ²⁶ Section 43 of the Constitution of Federal of Nigeria 1999
- ²⁷ Appropriate authority means the president or anyone authorized by him. See *Omware v Omisore* (Ibid). The tribunal being a creation of an appropriate authority can order a refund of the money stolen.
- ²⁸ Under Independent Corrupt Practices Act 2000, Economic and Financial Crimes Commission Act 2004 and the Code of Conduct Bureau and Tribunal Act 2004
- ²⁹ S. 44 Independent Corrupt Practices and Other Related Offences Act and section 15 (3) of Code of Conduct Bureau and Tribunal Act.
- ³⁰ There is no obligation for a person arrested to make full disclosure of all his assets and liabilities or to complete assets declaration form. See section 27 of Economic Financial Crimes Commission (EFCC) Act
- ³¹ The tribunal do not have jurisdiction over family members of public officers
- ³² Actions against public officers for breach of the code can be made at the tribunal and subsequent against family members of the suspected public officers for feature at the Federal High Court, so that the law can be procedurally put to confiscate assets of public officers and his family members acquired in breach. See Par 18 (5) of the 5th Schedule to the Constitution and section 3 (2) 3rd Schedule of Code of Conduct Tribunal Rules of Procedure LFN 2004
- ³³ See section 263 of the Code and Par 18(2) of the 5th Schedule of the 1999 Constitution. There is no procedural guidelines
- ³⁴ s. 19 Criminal Code, Cap C77 LFN 1990.
- ³⁵ By ss. 6 (4) and 75 of Proceeds of Crime Act 2002. In UK for the order of forfeiture to be invoked, the general crime record, accused lifestyle and conduct is sufficient.
- ³⁶ See par. 18 (2) of the 5th Schedule of the Constitution 1999, Ss.119 (1) and 26 of EFCC Act.
- ³⁷ (2009) 16 NWLR (pt. 1166) 169 @ 200-201
- ³⁸ Multiple forfeiture proceedings is not a breach of the constitution as forfeiture proceeding is not trial. See *Abacha vs FRN* (2006) 4 NWLR (pt. 970) 239 @ pp.300-301
- ³⁹ Akin Oyeboode; 'The Anti Corruption Act: A Necessary Instrument For Growth of our Nascent Democracy'. Essay in Honour of Chief OCJ Okocha (SAN), NBA Ilorin Biennial Law Week 2002,pg 5
- ⁴⁰ See Sec.15 (3) of the Act and Section 167 (A) of the Evidence Act 2011
- ⁴¹ CA/A/7/C/2006 delivered on 1st June 2010 cited as 2010 LPELR
- ⁴² By Sec.15 (3) of the Act (2011) as amended
- ⁴³ Section 122 (2) of the Evidence Act. In *Buhari v Yabo* (2006)17 NWLR (pt.1007) 162, the court of appeal held that judicial notice taken of a fact dispenses with proof. The Court of Appeal decision is inconsistent with section 122 (1) of the evidence Act 2011 (as amended).
- ⁴⁴ The mens rea is intention and omission. See section 206, 363 of the Penal Code
- ⁴⁵ Section 140 of the Evidence Act 2011
- ⁴⁶ It can be corroborated by the direct evidence of co- worker, auditing firm, petitioner or member of the code of conduct bureau that investigated the petition. By section 145 (1) of Evidence Act 2011 (as amended), the tribunal has the power to call for proof of presumed facts.
- ⁴⁷ Supreme Court Judgment delivered on 18/12/1958
- ⁴⁸ Fidelis Nwandialo 'Modern Nigeria Law of Evidence' Benin City: Ethiope Publishing, P.177
- ⁴⁹ In considering the amount of knowledge necessary to shift the burden of proof; regard shall be made to the opportunity of knowledge with respect to the facts to be proved. See Section 136 (2) of the Evidence Act (as amended) 2011
- ⁵⁰ Section 36(5) of the CFRN 1999.
- ⁵¹ The accused can even use evidence supplied by the prosecution. See J.A. Dada; *The Law and Evidence of Nigeria*, UNICAL Press: Calabar 2004: p.346
- ⁵² *Societe General Bank v Aina* (1997)6 NWLR Pt.509
- ⁵³ President, vice president, Governor, deputy governor, see Section 308 of 1999 CFRN
- ⁵⁴ (2001) 45 WRN1
- ⁵⁵ *Jonathan v John Abiri & Anor* suit No: FCT/CU/505/07
- ⁵⁶ CCT/NC/ABJ/KW/03/3/05/MI, delivered on 26th April 2006, his counsel filled a motion challenging the competence of the tribunal to issuing summons against the applicant. They argued that the constitution prohibits the courts from arresting, imprisoning or issuing any process on a serving Governor. The prosecuting counsel submits further that the immunity prohibition relates to proceedings and processes of courts and not of the tribunal. He argued further that the punishment which the tribunal imposes includes vacation of office which means that it is only a person in office, who would be penalized with removal from office.
- ⁵⁷ Section. 308 do not avail in the proceedings in the Code of Conduct Tribunal. Immunity is meant to aid and encourage a breach of code of conduct or the oath of office with reckless abandon, impurity and impunity.
- ⁵⁸ Justice Bola Ajibola SAN "Corruption and Leadership in Nigeria" a paper delivered at Law Week of Ikeja Branch of Nigeria Bar Association held at Airport Hotel Ikeja on 27th March 2008
- ⁵⁹ Gasiokwu. M.O.U (ed), *Fighting Corruption Through Courts*, DELSU Law Review, Vol. 1, DLR 2005.
- ⁶⁰ See Sec 24 (2) of Code of Conduct Tribunal Act, Cap C15, LFN 2004
- ⁶¹ Even a public officer under a state government. See *Nyame v FRN* (2010) 7 NWLR Pt. 1193
- ⁶² Section 24 (3) of the Act
- ⁶³ (1995) 5 SCNJ P.44
- ⁶⁴ It has been agued by scholars that the government existed so that corruption will strive. See *Gboyega, A. (Ed), Corruption and Democratization in Nigeria*. Ibadan: Friedrich Ebert Foundation and Agbo Areo Publishers, 1996.
- ⁶⁵ A person without locus standi has access to court but not to justice as the court will strike out the action without hearing the merit of the case. See *Yusuf v Kode* (2002) 6 NWLR (PT. 762)231
- ⁶⁶ *Adejumo v Ayantegbe* (1989)3 NWLR (pt. 110)417
- ⁶⁷ *Owodunmi v Registered Trustee of C.C.C* (2000)
- ⁶⁸ By section 299 of the Constitution, every dispute is qualified to be resolved by the court.
- ⁶⁹ See *Lakanmi v State* (1970)NSCC 143
- ⁷⁰ It is the High Court that has jurisdiction on the subject matter

Review

Determinants of jurisdiction in arbitral proceedings for construction contract dispute resolution in Nigeria.

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Well known to construction industry contracts are disputes such as unresolved claims and are inimical to achieving project objectives. This has attracted provision of dispute resolution clause in contractual agreements such as Arbitration clause aimed at resolving any emerging dispute. However, the issue of challenge of jurisdiction (powers) of the arbitrator(s) remains a reoccurring determination in Nigeria courts. Considering arbitral agreements/ clause in domestic perspectives, the paper reviewed provisions of Nigerian Arbitration and Conciliation Act, (ACA) 1988, some other relevant laws and decided court cases as related to determinants of arbitrator(s)' jurisdiction. It discovered that interplay of several factors including principle of parties' autonomy; project specific characteristics, complexity of construction etc are essential determinants. The paper however concluded that it may be complex to enlist determinants for jurisdictional powers of arbitral panel but recommended that basic requirements should not be far from those provided for by the national arbitration law and the characteristic of construction project contract and environment, while contracting parties must have in view court decisions on construction industry market in drafting arbitral agreements.

Key words: Arbitral Proceedings, Construction Contract, Jurisdiction Nigeria.

INTRODUCTION

The dynamic and uniqueness of typical construction industry projects is their being conditionally contractual, complex and lengthy which makes them vulnerable to risk variables and disputes inimical to the project objectives (Ojo and Akinradewo, 2011). By this, many projects have failed due to many factors including unresolved disputes between contracting parties: or due to actions of the parties or breach of any silent conditions of the contract (Ojo, 2008).

This, often than ever, has attracted the practice that contractual agreements now reasonably contemplate dispute between parties hence, dispute resolution clauses are couched into such agreements. Bryan et al ¹ opine that this allows parties the ability to plan early for possible disputes and the flexibility to customize the most time- and cost-effective resolution process for their cases, hence diminishing the effects of those disputes on the project when and if they occur.

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However, in carrying out this term of contractual agreement, arbitration amongst other non-adversarial Alternative Dispute Resolution (ADR) mechanisms has taken the lead in employment (Kolawole Mayomi, 2010). Accordingly, proviso Nigerian Arbitration and Conciliation Act, 1988. Cap A18 Vol.1, Law of the Federal Republic of Nigeria, 2004, (ACA, 1988)² (Orojo and Ajomo, 1999), an agreement in which two or more persons agree that, in respect of future disputes or of existing disputes, between them be decided in a legally judicial and binding manner by one or more persons of their choice, such express statement couched into a commercial agreement with specific mention of arbitration as a method of dispute resolution or a reference to a statute making it mandatory to arbitrate in the event of a dispute amount to Arbitration Agreement /clause. This is in tandem with the principle of parties' autonomy. Arbitration is appellate to other ADR methods especially where multi-tiered Dispute Resolution mechanism is agreed.

However, despite the avalanche of Arbitration Agreement/clause in contract agreements, the issue of challenge of jurisdiction of the arbitrator(s) remains a reoccurring dispute for determination in Nigerian courts³. For instance, if the arbitrators sought to resolve an issue beyond their competence, they could be restrained from doing so by the courts on the plea of any of the parties: though, likewise, the courts recognized that arbitral panels possessed an inherent power to determine their jurisdiction. Arbitral Jurisdiction has severally and divergently been viewed across provisions of various national laws and institutional rules^{4,5}. However, common to all is that, jurisdiction is the Arbitrator(s)' authority to decide a dispute; jurisdiction confers powers on the arbitrator(s) to arbitrate and often availed by the parties. It is therefore a truism that jurisdiction is related and central to any judicial proceeding and to building and sustaining confidence of the disputants in adjudicatory system like arbitral proceeding.

The question of jurisdiction is typically⁶ a preliminary matter for the arbitral tribunal to determine. This means whether it is valid and whether the dispute lies within the scope of the arbitration agreement. Or whether as a matter of construction of the arbitration agreement, a tribunal possesses the jurisdiction to hear a dispute. Another challenge to the issue of jurisdiction is to foreclose whether the possibility of lack of jurisdiction is sufficient to rob the trial of minimum requirement of fair play and fair hearing. Or, by extension whether the result of lack of jurisdiction makes an award a nullity⁷. Therefore, whenever there is challenge of judicial (arbitral) jurisdiction, such affords adroit and judicious determination devoid of favor and acrimony.

Following from the foregoing, to promote a hitch – free process, what then are the determinants of jurisdiction in arbitral proceeding in view of the Arbitration and Conciliation Act, 1988. Cap A18 Vol.1, Law of the Federal

Republic of Nigeria, 2004, case laws and literal reasoning of the courts and authorities? This paper intends to identify determinants of jurisdiction in arbitral proceeding as applicable to construction contract dispute particularly in construction contract arbitration agreements. The significant of this study is premised on the weight attached to jurisdiction by ACA⁸.

Overview of arbitration and arbitral agreements

One important issue is that most commercial transaction agreements like construction contracts often reasonably contemplate dispute between parties. Hence dispute resolution clauses are couched into such agreements and a mechanism apart from litigation often adopted is Arbitration.

Arbitration (as means of Alternative Dispute Resolution (ADR)) is an adjudicatory process or a private legal technique for the resolution of disputes outside the courts, in which a neutral third party (a person or a panel) is empowered to decide disputed issues, referred to it, after hearing evidences and arguments from the parties. Though Arbitration may be voluntary (based on principle of parties autonomy) that is, where the parties agree to use it or it may be mandatory, it is the exclusive means available for handling certain disputes in consideration of some factors. Arbitration is applicable under the ACA⁹, Trade Disputes Act Cap.T8 Law of the Federation of Nigeria (LFN), 2004; Nigerian Investment Promotion Act Cap.N117 LFN), 2004 in Nigeria and are suitable examples.

In Nigerian commercial context, arbitration is now being preferred to litigation largely owing to the limited jurisdiction and enforceability of court judgments¹⁰. This is evidential in the growing number of Arbitration bodies relevant to national and international arbitration that are based¹¹ in Nigeria. This does not list or delimit matters which are not capable of settlement by arbitration. An arbitration agreement is an agreement where the parties consent to have disputes arising from or related to their contract submitted to arbitration (Susler O.2009). Arbitration agreements are thus contractual in character. However, under the separability principle, almost in every legal order including Nigeria, an arbitration clause which forms part of a contract is treated as an agreement independent of the rest terms of the contract agreement^{12,13} and a decision that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.¹⁴ But an exception to this, in certain limited cases example fraud, the arbitration agreement may be declared invalid on the same grounds as the wider contract.¹⁵

However, where arbitration agreement is not expressly availed, it can be implied- an ad hoc dispute resolution agreement inferred is usually call submission agreement.

Some dispute resolution institutions have suggested standard clauses to ease the hassles of dispute resolution clause¹⁶ since a one – off clause/agreement cannot suffice for all types of disputes. ACA (1988) Section 1 (1a) expressly mandates that arbitration agreement must be written, in the language best understood by the parties, and signed by the parties, hence intention to arbitrate become apparent and sacrosanct. Generally Commercial disputes arising under valid arbitration agreements are arbitrable.

Jurisdiction: Its essence and exigency

Jurisdiction of the arbitral Tribunal has been a crux of interest. Unlike the public law system where jurisdiction has also been emphasized¹⁷ but premised on the constitutional right to seek redress in Court¹⁸, which gives the Court the power to hear and determine any questions as to the civil rights and obligations of a person and between persons¹⁹, hence the premised of jurisdiction of the court system. The Nigeria ACA (1988) in sections 12 and 13 essentially requires the arbitral tribunal to possess jurisdiction that is authority to decide a dispute.

In the case between Nigeria National Petroleum Corporation (NNPC) v Clifco Nig Ltd (supra), Rhodes-Vivour JSC succinctly described jurisdiction in judicial proceedings thus;

Jurisdiction is the heart and soul of a case. No matter how well a case is conducted and decided if the court had no jurisdiction to adjudicate, the whole exercise would amount to a nullity and mere academic exercise.

The tribunal's jurisdiction describes its authority or power to decide a dispute (Alexander, 2006). Hence, pursuant to ACA, 1988, some examples of Powers of the Arbitrator are not limited to:

- i. To rule on his own jurisdiction – Section 12(1)
- ii. To order interim measures of protection in respect of the subject-matter of the dispute – Section 13
- iii. To determine the procedure to be adopted in the arbitral proceedings – Section 20
- iv. To administer oaths, take affirmations – Section 20(5)
- v. To appoint experts – Section 22
- vi. To determine the language of the arbitral proceedings – Section 18
- vii. To record a settlement in the form of an award – Section 25

The importance of jurisdiction has largely orchestrated most arbitration statutes and institutional rules to provide for the arbitrators to render a preliminary award on jurisdiction²⁰. That is, the arbitral tribunal or panel to determine whether it is valid and whether the dispute lies

within the scope of the arbitration agreement or whether by the arbitration agreement, a tribunal possesses the jurisdiction to hear the dispute. This strengthens the theory that parties are more likely to be acting in good faith with legitimate concerns about the arbitrators' jurisdiction and ultimate awards. Beside this is based on the principle of competence-competence, meaning that, arbitrators are empowered to rule on their own jurisdiction.

Challenge of jurisdiction in arbitral proceeding

It is not uncommon to find disputant through their counsels filing applications seeking arbitrators to disqualify themselves from commencing a case or from further participation in a proceeding on grounds of likelihood of lack of jurisdiction. When this occurs, what is the position of the law?

Actually, jurisdiction is a threshold matter and a question of law. There seem to be a universal position of the law that the issue of jurisdiction can be raised at any stage of the proceedings, in the court of first instance, on appeal and even in the Supreme Court²¹. However, this rule seem vacated in the NNPC v Clifco Nig Ltd on issue 1 for determination premised on the provision of ACA(1988) section 12(3) thus;

In any arbitral proceedings, a plea that the arbitral tribunal, (a) does not have jurisdiction may be raised not later than the time of submission of the points of defence and a party is not precluded from raising such a plea by reason that he had appointed or participated in the appointment of an arbitrator and (b) The arbitral tribunal may in either case admit a later plea if it consider that the delay was justified.

In that case, His Lordships concord with the lead judgement²² delivered by Rhodes-Vivour JSC that;

“the interpretation of the above and the position of the issue of jurisdiction in arbitral proceedings is that jurisdiction to hear and determine a dispute is raised before the arbitral panel within the time stipulated in the arbitral Act. It can only be raised after the stipulated period if the arbitral panel finds reasons for the delay justified. An appeal on the issue of jurisdiction can be entertained by the High Court provided there was no submission to jurisdiction. A party who did not raise the issue of jurisdiction before the arbitral panel is foreclosed from raising it for the first time in the High Court. The reason being that the foundation of jurisdiction in an arbitration is submission.”

It will not therefore be in the extreme to assert that lack of jurisdiction may result in judicial bias (Iwilade Akintayo 2012). And judicial bias is a serious judicial mishap²³-an act of partiality. Hence, it is trite that justice must be enshrined in confidence of not only of the disputants but

that of a reasonable and right-minded person.

Factors determining jurisdiction in arbitral proceeding

The position of the law applicable in the regular courts as related to jurisdiction seems largely in variance to and does not apply to arbitral proceedings. For instance, section 12(1) of the ACA(1988) Act governs the issue of jurisdiction in arbitral proceedings in Nigeria. The Arbitrator is only authorized to exercise the jurisdiction and powers by;

Details of the provisions of arbitration agreement

By the arbitration agreement, the parties mutually granted this authority to a tribunal and excluded state courts. Hence, the foundation of jurisdiction in arbitration is the voluntary submission by the parties to arbitrate²⁴. This is in accord with the contractual doctrine of parties' autonomy with national and international supports.²⁵ Following from this, a one – off clause/agreement cannot suffice for all types of disputes but every arbitration agreement become unique and must be of large extent to address statutory requirements and essentialities on arbitration, capable to prognosis any dispute (Ojo and Akinradewo 2011). The requirements for a valid arbitration agreement can be distilled from the provisions of the ACA:

- i. The arbitration agreement must be in respect of a dispute capable of settlement by arbitration under the laws of Nigeria²⁶.
- ii. The parties to the arbitration agreement must have legal capacity under the law applicable to them²⁷.
- iii. The arbitration agreement must be valid under the law to which the parties have subjected it or under the laws of Nigeria²⁸.

Apart from above, arbitration agreement for construction contract agreement ought to incorporate;

- i. the place (or seat) of arbitration,
- ii. language of arbitration,
- iii. Composition (number of arbitrators)²⁹,
- iv. Appointment and qualifications of Arbitrator(s)³⁰.
- v. Statutory Governing law or rules of institution etc.

These elements in the arbitration agreement would ensure that the parties have good measure of control and autonomy and hence arbitrators' ease of determination of jurisdiction.

Issues conferred on the arbitrator(s) by the parties

This is the dispute at hand to resolve. For example, claims

relating to contract, delay, variation, fluctuation and common law issues are common sources of construction dispute in Nigeria³¹. Hence, disputants confer on arbitral tribunal to determine in event of their occurrence. However, if the arbitrator(s) seek to or delve into extraneous issues beyond the pleas of the parties, it amount to not only exceeding its bounds and out of jurisdiction³² but could be restrained from doing so by the courts. This position is aptly reinforced by Nigerian law.³³

Matters conferred by statutes and the law

The scope of the supervening law or rules clearly implicates the arbitrators' jurisdiction. For example, Arbitrators have no jurisdiction over issues the parties did agree, and otherwise upon those procedures not included within arbitration agreement (Alan S. Rau 2003). This rule is not premised in the main arbitration agreement, but rather on the arbitration statutes, rules/guidelines or laws of the state or institutions where the arbitration is held (known as *lex arbitri* or *the seat*) and perhaps laws of any jurisdiction where the agreement will be enforced.

Under the ACA, where the parties otherwise agreed, the arbitrator is at liberty to determine such issues related to its jurisdiction thus;

- i. the place (or seat) of arbitration³⁴,
- ii. language of arbitration³⁵,
- iii. Arbitration Rules for example power to determine admissibly, relevance, materiality and weight of any evidence placed before it³⁶.
- iv. Conduct of arbitral proceedings³⁷
- v. appoint one or more experts³⁸
- vi. Make an Award³⁹.

Intervention of the courts

Under the Nigerian law, arbitral jurisdiction can be conferred by the intervention of the court. This is achieved where the parties refer to the court to derive powers as may be conferred by the applicable laws. Specifically, court in exercising its power of appointment of arbitrators⁴⁰, the arbitral panel concomitantly assume jurisdiction. However, the section laid responsibilities on the court to give due regard to;

- i. qualifications of arbitrator,
- ii. reference to arbitration agreement and
- iii. other considerations

In order to ensure independence and impartiality of arbitral proceeding. The strength of this jurisdiction is that the decision of the court is immune from appeal by any of the parties⁴¹. This may be largely because the determination of the merit of application of determination of

jurisdiction can only be lawfully made and particularly to the standard imagination of a reasonable man.

Case test of selected arbitration agreements in construction contracts

With more local and international construction projects coming up in and into Nigeria due to liberalization policies, contract agreements and particularly, dispute resolution agreement is becoming sophisticated and local practices – in the use of Standard Form of Contract Conditions - may be threatened, given way to bespoke contract. From the forgoing, this paper examines the provisions of two selected Arbitration Agreements in Construction project Contracts as shown in Case 1.

The construction project is for the fabrication of flare Scrubber, a compartment part of an oil platform. The parties, Chevron Nigeria Limited and Nigerdock Nigeria Plc, are major companies in Nigerian oil and gas sector. No dispute ensued between the parties in the contract. However, from this dispute resolution agreement, as agreed by the parties, the jurisdiction of the arbitrators can be derived. The agreement also elucidates on requirements and essentialities on arbitration, in terms of anticipated dispute and conferred power on Arbitrator, mandatory procedures and duration prior arbitration, seat and language of proceeding, the governing law, number and appointing body of Arbitrator and limitations of powers of award etc capable to prognosis any dispute. Precisely, sections 15.1, 15.2 and 15.3 A, B and E are the major determinants of arbitral jurisdiction in this contract.

Standard Form of Building Contract of Nigeria (1990) is a major contract in use in Nigeria's building construction industry (Case 2). In fact, a large number of parties adopt it without any amendment. This clause implicitly, as often adopted and agreed by parties, confers Issues on the Arbitrator (details the natures and characteristics of dispute) admissible for arbitration; mandatory procedures and the qualification, quality, number and appointing authority of the arbitrator; the governing law regardless of seat of Arbitration and limit of powers of award. However, the clause is silent and irresponsive to language of proceeding, seat of arbitration and duration prior arbitral proceeding. While it can be said that the jurisdiction of the arbitrator derived from this clause, the clause stands controversial and capable of engendering challenges to jurisdiction if employed for transnational construction project.

The project entails Renovation of Health Centre for the benefit of the communities within Ikaram-Ibaram cluster villages. UNDP adopted this standard clause under this contract (Case 3). Though no dispute ensued, however, the clause unconditionally, adopted and agreed to Arbitration as the method of dispute resolution (details the natures and characteristics of dispute) with specific

reference to UNCITRAL as the governing law, yet regardless of seat of Arbitration and limit of powers of award. This clause is mute on issues like language of proceeding, seat of arbitration; but indicated duration or prior arbitral proceeding. The jurisdictional power of the arbitrator derived from this clause, appears weak and vulnerable to engendering challenges to transnational construction project disputes resolution.

Table 1, distils out in comparison basic requirements of ACA, 1988 and the provisions in the dispute resolution clauses case studies. This comparative review depicts interplay of several factors and interfering of common law jurisdiction order. These include principle of autonomy of the parties, project specific characteristics, complexity of construction and parties etc. In Case two and three, it can be depicted to be grossly deficient of the requirement of Nigeria Arbitration and Conciliation Act, 1988, while case one seeming flexibility comes concomitantly with tint of far preference for foreign laws and regulations. This divergence only showcases privacy and flexibility in adoption of Arbitration in dispute resolution for commercial contracts like the construction contract business.

The import and perhaps implications of the above is far reaching. An arbitrator on panel of contracting parties using Case Two stands vulnerable to more grievous risk of lack of jurisdiction in case of any dispute. This can be infer from gross deficiencies by non-compliance with ACA, 1988. Though, this might be subsumed during pre-trial of the arbitral proceeding.

CONCLUSION AND RECOMMENDATION

As attractive as arbitration might be to investors in the emerging Nigeria construction and infrastructure market, issue of disputes which seems to characterize the construction industry is very significant to consider. Moreover, the jurisdiction of the arbitrator in determining and resolving disputes is essential- useless there is jurisdiction, the Arbitrator has no powers. Determining the jurisdictional powers of the arbitral panels seems clear-cut except for the entrenched inhibiting factors and its attendant limitations, making the issues seeming more complex. The complexity is orchestrated by determinant factors ranging from party autonomy, divergent provisions of arbitration agreement, Issues conferred by the parties, matters conferred by statutes and the roles of national and international laws, rules and conventions including the various approaches of national courts across common law jurisdictions.

From this vague position, it may be difficult to enlist model determinants hence the jurisdictional powers of arbitral panel may remain a complex one. However, it is recommended that basic requirements should not be far from those provided for by the national arbitration law. Beside further suggest that the rest determinants

15. GOVERNING LAW AND RESOLUTION OF DISPUTES

- 15.1 **Governing Law.** This Contract is governed by and interpreted under the laws of the Federal Republic of Nigeria, without regard to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods, 1980 (known as “the Vienna Sales Convention”) does not apply to this Contract.
- 15.2 **Resolution of Disputes.** If any Dispute arises out of or in relation to this Contract and if the Dispute cannot be settled by direct negotiations, either Party may initiate mediation. If the Parties fail to settle the Dispute within thirty days of notice of mediation, either Party may initiate binding arbitration.
- 15.3 The following provisions shall apply to arbitration proceedings pursuant to Section 15.2:
- (A) The place of arbitration will be Lagos, Nigeria.
 - (B) One arbitrator will conduct the arbitral proceedings, in English, in accordance with United Nations Commission on International Trade Law Arbitration (“UNCITRAL”) Rules. The American Arbitration Association is the appointing authority (in the case of Disputes involving all U.S. Parties). The International Centre for Dispute Resolution is the appointing authority (in the case of Disputes involving a non-U.S. Party).
 - (C) The Parties will submit true copies of all documents considered relevant with their respective statement of claim or defense and any counterclaim or reply. Neither Party may compel the other to produce additional documents. The maximum number of witnesses each Party may call to give evidence is three witnesses of fact and one expert witness.
 - (D) The arbitrator does not have the power to award, nor shall the arbitrator award, any punitive, indirect or consequential damages (however denominated). Each Party will bear its own costs of legal representation and witness expenses.
 - (E) The arbitrator must render a reasoned award in writing. The award is final and binding.
 - (F) The Dispute will be resolved as quickly as possible. The arbitration award must be issued within three months from completion of the hearing, or as soon as possible thereafter.

Case 1. Construction, Loadout and Transportation of Flare Scrubber, Jisike, Nigeria.
Between Chevron Nigeria Limited and Nigerdock Nigeria Plc.

35. Arbitration

35.1 Provided always that in case any dispute or difference shall arise between the Employer or Architect on his behalf and the contractor, either during the progress or after completion or abandonment of the works as to the construction of this contract or as to any matter or thing of whatsoever nature arising there under or in connection therewith (including any matter or thing left by this contract to the discretion of the architect) or the withholding by the architect of the certificate to which the contractor may claim to be entitled or the measurement and valuation mentioned in clause 25,26,32 and 33 the same shall not be allowed to interfere with or delay the execution of the works but either party shall forthwith give to the other notice in writing of such dispute or difference and such dispute or difference shall be and is hereby referred to the arbitration and final decision of a person to be agreed between the parties to act as arbitrator. Such a person shall be an experienced professional in the construction industry or failing agreement, a person appointed (at the request of either party) by the President of the Nigeria Institute of Architects (NIA).

35.2 The award of such Arbitrator shall be final and binding on the parties.

35.3 Whatever the nationality, residence or domicile of the Employer, contractor, any subcontractor or supplier or the Arbitrator and whatever the works or any part thereof are situated, the law of the Federal Republic of Nigeria shall be the proper law of the contract and shall apply to any arbitration under this contract whatever the same or any part of it shall be conducted.

Case 2: Standard Form of Building Contract of Nigeria (1990), Clause 35.

13.2 Arbitration

Unless, any such dispute, controversy or claim between the Parties arising out of or relating to this Purchase Order or the breach, termination or invalidity thereof is settled amicably under the preceding paragraph of this Section within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining, including its provisions on applicable law. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

Case 3: United Nations Development Programme (UNDP): Renovation of the following Health Centers for the Ikaram/Ibaram MVP, Ondo State Clause 13.2

Table 1. Comparison of basic requirements for arbitral panel jurisdiction.

Requirements as per ACA, 1988.	Level of compliance		
	Case one	Case two	Case three
1 The place (or seat) of arbitration	YES	NO	NO
2 Language of arbitration	YES	NO	NO
3 arbitration Rules e.g. power to determine admissibly, relevance, materiality and weight of any evidence.	NO	NO	YES
4 Conduct of arbitral proceedings	YES	NO	NO
5 Appointment of experts/witness	YES	NO	NO
6 Make an Award and Strength of Award	YES	YES	YES
7 Composition of Panel(Number of Arbitrators)	YES	NO	NO
8 Qualifications of arbitrator	NO	YES	NO
9 Reference to arbitration agreement	YES	YES	YES

depends on the circumstances of construction project and contract characteristic, project environment, contracting parties having in view the interplay of the several factors mentioned and the gamut of the construction industry market.

Orojo O, Ajomo A (1999). Law and Practice of Arbitration and Conciliation in Nigeria, University Press,Ibadan, p. 5

Susler O (2009). The jurisdiction of the arbitral tribunal: a transnational analysis of the negative effect of competence MqJBL p. 6

REFERENCES

Alan SR (2003). Everything You Really Need to Know About "Separability" in Seventeen Simple Propositions, Mar.14, (paper delivered at this Symposium, to be published in AM. Review on International Arbitration.).

Alexander J (2006). Consequences of Multi-tier Arbitration Clauses:Issues of Enforcement 72:329-338. <http://www.peacepalacelibrary.nl/plinklet/index.php?sid=related&ppn=297990888>

Iwilade A (2012). Curbing Bias in Judicial Proceedings. The Guardian, Tuesday, October 9th, p.72.

Kolawole M (2010). Arbitrating in Nigeria?, Global Arbitration Review 5:5

Ojo AE (2008). Imperative of Alternative Dispute Resolution In Construction Contract, NAQSS Cost Link magazine, Akure

Ojo AE, Akinradewo FO (2011). Essentials in arbitration clause for construction contract dispute Resolution in Nigeria In: Egbu, C. and Lou, E.C.W. (Eds.) Procs 27th Annual ARCOM Conference, 5-7September, Bristol, UK, Association of Researchers in Construction Management, pp.615-622.

¹ Bryan S. Shapiro, Shapiro H. And Knutso S. Construction Claims And Construction Strategies, <http://www.shk.ca>. Accessed 11/08/08

² Arbitration and Conciliation Act, 1988. Cap A18 Vol. 1, Law of the Federal Republic of Nigeria, 2004,

³ Rhodes-Vivour JSC in the lead judgment delivered in the case between NNPC v Clifco Nig Ltd (2011) CLR 4 (SC) opined that the courts ought to spend precious judicial time on living issues of jurisdiction.

⁴ Arbitration and Conciliation Act, 1990. Cap A18 Vol. 1, Law of the Federal Republic of Nigeria, 2004,

⁵ The Indian Arbitration and Conciliation Act 1996

⁶ Christopher Brown Ltd v Genossenschaft Oesterreichischer WaldbesitzerHolzwirtschaftsbetriebe Registrierte GmbH [1954] 1 Q.B. 12, 13 (Devlin J).

⁷ See e.g. Art. V(1)(c) of the Recognition and Enforcement of Foreign Arbitral Awards, 1958, (New York Convention).

⁸ Generally, by virtue of section 12(4) of the ACA, a ruling by the tribunal on its jurisdiction is final and binding and is not subject to appeal.

⁹ section 1(2).

¹⁰ In C.N. Onusegolu Ent. Ltd. v. Afribank (Nig.) Ltd. (2005) 1 NWLR Part 940 577, the Court held that arbitral proceedings are a recognised means of resolving disputes and should not be taken lightly by both counsel and parties.

¹¹ Chartered Institute of Arbitrators (Nigerian Branch), the Regional Centre for International Commercial Arbitration and the Arbitration Commission of the International Chamber of Commerce (Nigerian National Committee).

¹² Sojuznefteexport V. JOC Oil, Ltd., 15 Y.B. COM. Arbitration. 384, 415-18 (1990) (Ct. App. Berm. 1990) where the tribunal accepted that the main contract was invalid validity under Soviet law having been signed by only one official instead of two but accepted that the arbitration agreement made subsist.

¹³ Arbitration and Conciliation Act, 1988. Cap A18 Vol. 1, Law of the Federal Republic of Nigeria, 2004, section 12(2)

¹⁴ That uniformity derives principally from the wide acceptance of the New York Convention⁵ and the influence of the UNCITRAL Model Law.⁶ The New York Convention now boasts 133 parties,⁷ and the Model Law has served as the paradigm for most recently enacted national arbitration statutes.

¹⁵ United World Inc. v. M.T.S LTD (1998) 10 NWLR (PART 568) 106 Court of Appeal.

¹⁶ Chartered Institute of Arbitration (UK), Practice guideline and protocol www.ciarb.org/information-and-resources/ accessed 23/04/2010.

¹⁷ Bromk Motors Ltd and Anor v. Wema Bank Ltd 1983 1 SCNLR P.296

¹⁸ See Constitution of the Federal Republic of Nigeria, 1999, S.6 (6) (b)

¹⁹ In the case of **Ransome-Kuti v. Attorney General of the Federation**, (1985) 2 NWLR, part 6, 211. the courts established by the Constitution can freely adjudicate on any matter in controversy between a citizen and a government and between governments even where such actions are prohibited under the common law.

²⁰ John J. Barceló III, Who Decides the Arbitrators' Jurisdiction? Separability and Competence-Competence in Transnational Perspective (2003) Vanderbilt Journal Of Transnational Law [Vol. 36:1115

²¹ Usman Dan Fodio University v. Kraus Thompson Organisation Ltd 2001 15 NWLR pt.736 p. 305.

²² NNPC v Clifco Nig Ltd (2011) CLR 4(SC)

²³ Commissioner of Local Government vs Ezemuoke (1991) 3 NWLR (PT) 615, Oguntade J. describe this as the impression which judicial determinations give to other reasonable person or people.

²⁴ In Ogunwale v. Syrian Arab Republic (2002) 9 NWLR (Part 771) 127 the Court of Appeal held that the test for determining whether a dispute is admissible to arbitration is that the dispute must arise from the clause contained in the agreement

²⁵ See Art. 17(1) ICC Arbitration Rules, Art. 33(1) UNCITRAL Arbitration rules.

²⁶ See section 48(b)(i) and 52(b)(i) of the ACA.

²⁷ See section 48(a) (i) and section 52(2)(a)(i) of the ACA.

²⁸ See section 48(a)(ii) and 52(a)(ii) of the ACA.

²⁹ See section 6 of the ACA.

³⁰ Ogunwale v. Syrian Arab Republic (2002) 9 NWLR (Part 771) 127 on the right of appeal against a decision of the High Court appointing an arbitrator and on the constitutionality of sections 7(4) and 34 of the Arbitration and Conciliation Act

³¹ Ren, Z., Anumba, G.J. and Ugwu, O.O. (2001). Construction claims management: towards an agent-based approach. Engineering, Construction and Architectural Management 8(3), 185-197

³² See Abbas v. Solomon 2001/15 NWLR pt.735 p. 144. Where on appeal the lower court judgement was rendered void for want of and exceeding its bounds and out of jurisdiction.

³³ See section 19(1-3)

³⁴ Section 16(2) ACA

³⁵ Section 18(1) ACA

³⁶ See section 15(3) of ACA, 1990

³⁷ See section 20(1)a-c.

³⁸ See section 22(1) a

³⁹ See section 24(1)

⁴⁰ See section 7(5) subject to the occurrence of such event under subsections (2) and (3) of ACA, 1990

⁴¹ See section 7(4) of ACA, 1990

Review

Essential elements of human rights in Buddhism

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Broadly speaking elements and principles of human rights are incorporated in teachings of the most religions of the world including Buddhism. Notion of a right is very much there in Buddhism. The elements incorporated in social message of Buddha are part and parcel of modern day principles of human Rights incorporated in many international declarations, covenants, protocols and constitutions of most of the countries of today. Buddha succeeded in discovering the antidote of all sufferings in the form of Dhamma, a collection of very simple and clear elements of natural truth for the restoration of human rights and fundamental freedom. There is intimate and vital relationship of Buddhist norm of Dhamma with that of human Rights. Buddhism subscribes to universal human rights concept and all the articles of universal declaration of human rights (UNDHR) are in harmony with early Buddhist teachings in letter and spirit. Human Rights as construed in the modern era are compatible with Buddhist ethics. Certain values embodied in the notion of right are better served by the notion of right in the Noble Eight fold Path given by Buddha. Human rights notion is an extension of human nature. Buddhism indeed is supreme law of all laws existed so far in the province of human right protection and fundamental freedom. Duties and rights are correlative and reciprocal. Buddhism is as such committed to the cause of human rights.

Key words: Buddhism, human rights, Dhamma of Buddha, duties and rights.

INTRODUCTION

It is contended that Buddhism concerns more with other issues than Human Rights. Moreover, concern for human rights is a post religions phenomenon which has more to do with secular ideologies and power politics than religion and therefore it is unreasonable to accuse Buddhism of neglect in this area. Also much of the Buddhist literature remains untranslated, hence there may be hidden treasures still undiscovered in this area and many elements of human rights could be found in Buddhism.

By meaning right is objectively true or right or straight or upright which is applied metaphorically in a moral context. The primary moral sense of right was a standard

or measure for conduct. Right indicates right morally, straight or true that meets the standard of rectitude or rightness. In other way, it is something done by a person because it is his right or it is done because the person has right to do it. Hence, even if right things are incorporated in religious philosophy that means those right things are also rights of the person. Broadly speaking elements or principles of human rights are incorporated either expressly or impliedly in teachings of the most religions of the world including Buddhism. Transition of moral use of right to the notion of right for personal entitlement took place in the West in form of watershed

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that happened during the late middle Ages. It was the concept of natural rights then that got evolved towards the end of Seventeenth century as reported by John Locke. Earlier, use of this connotation was in Thirteenth century and Grotius used it in Seventeenth century. Modern use of right emanated in Hobbes writings in the middle of seventeenth century. Natural rights are inalienable and have not been conferred on person by any judicial or political entities and hence someone cannot be deprived of his/her rights by these or other entities. Concept of natural Rights of Seventeenth and Eighteenth centuries culminated in the notion of human Rights of eighteenth Centuries that continues to prominence in 20th and 21st Centuries.

It is historical process through which concept of human rights evolved. Moreover the idea was not entirely new and there has been influence of Christian doctrine on it in many respects too. Also philosophical justification of Human Rights has been found in other philosophies and religions including Buddhism (Demien 1995). The basic concept of human rights envisages right as something personal to individual, it may be thought of as something an individual has.

By definition, Right is benefit which confers upon its holder either a claim or liberty. Modern concept of human rights is however many faceted concept. In metaphorical and moral sense right word is seen in Buddhist as well as other languages. However, in Pali there is no word that actually conveys idea of rights, as subjective entitlement. But the notion of rights may be distributed among a variety of terms in Buddhist languages, as in Latin language it could be *libertus*, *jurisdictio*, *dominium* etc. Also cultures may depict concept of rights without having vocabulary which expresses the concept. Thus, concept may be used rather than have it in words and persons might have used the concept of right without explicitly having a single word for it. Like English terms right and duty are translated as ought, concept of right may exist where a word for it does not. Dharma in Buddhism conveys what is right and just in all contexts and from all perspectives. The word Religion according to Dr. Ambedkar is an unidentified word with no fixed meaning and that is because religion has passed through many stages. The concept of each stage was called religious thought. The concept at one stage has not had the same connotation which it had in the preceding stage. Its meaning is likely to differ in the succeeding stages. The concept of religion was never fixed but it varied from time to time. Similarly the concept and scope of Human Rights is ever changing. It is dynamic and liberal in nature and wider in its scope.

As Buddha and Buddhism is concerned, anything that does not relate to man's welfare cannot be accepted to the word of Buddha. According to Buddha, his Dhamma (religion) had nothing to do with God and soul. His Dhamma has nothing to do with life after death

(Ambedkar 1984, 1992). The Centre of Dhamma is man and relation of man to man in his life on earth. The world is full of suffering and to remove this suffering from the world is the only purpose of Dhamma. Nothing else is Dhamma. According to Dhamma if every person followed the path of purity, the path of righteousness and the path of virtue, it would bring end of all sufferings. According to path of purity the principles recognized by it are: Not to injure or kill, not to steal or appropriate to one self-anything which belongs to another, not to speak untruth, not to indulge in lust, not to indulge in intoxicating drinks. According to the path of Righteousness there are eight constituents called Ashtang Marg that is, (i) Right look (ii) Right Intension (iii) Right Speech (iv) Right Action (v) Right Effort (vi) Right Means of Livelihood (vii) Right Mindfulness and (viii) Right Concentration. According to Buddha the path of virtues meant - (i) Sila (moral temperament, not to do evil), (2) Dana (giving ones possessions even one's life for the good of others), (3) Uppekha (detachment from indifference), (4) Nekkhamma (renunciation of the pleasure of the world), (5) Virya (right endeavor), (6) Khanti (is forbearance, not to meet hatred by hatred), (7) Sutta (is truth in speech and never to tell a lie), (8) Adhithana (resolute determination to reach the goal), (9) Karuna (loving kindness to human beings), (10) Maitri (fellow feeling to all living beings) Anand, (2002).

According to some Samadhi is Buddha's principle teaching or Vipassana, is his main teaching, to some it is metaphysics, mysticism or selfish abstraction from world, to some it is systematic repression of every impulse and emotion of the heart. This divergence of views is astonishing. On the other hand many consider that Buddha gave a social message through his dhamma. The message include, teaching of Ahinsa (nonviolence), peace, justice, love, liberty, equality and fraternity etc. which clearly and conclusively indicate that Buddha very much gave a social message through his teachings. The elements incorporated in his social message are part and parcel of modern day principles of human Rights incorporated in many international declarations, covenants, protocols and constitutions of most of the countries of today. According to him Dhamma means Dhammawhich is not Adhamma and which is Sadhamma. Dhamma means to maintain purity of life, to reach perfection in life, to live in Nibbana (that means idea of happiness of a sentient being, when in Samsara (when alive), exercise of control over the flames of the passions which are always on fire. Unhappiness is the result of greed and greed is the bane of life of those who have as well as of those who have not. Nibbana is another name of righteous life. To give up craving, to believe that all compound things are impermanent, to believe that Karma is the instrument of moral order. This also means belief in supernatural, belief in God, belief in soul, union with Brahma is a false Dhamma, belief in sacrifices, belief based on speculation, is not Dhamma, belief in infallibility

of books of Dhamma is not Dhamma. According to Buddha Saddhamma among other things include making the world a kingdom of Righteous, making learning open to all, breaking down barriers between man and man, worth and not birth is the measure of man. Dhamma to be saddahmma must promote equality between man and man. It is Saddhamma when it touches Maitri (love for living beings). Dhamma to be Saddhamma must pull down all social barriers. As to Buddha's sense of equality and equal treatment is concerned, he never claimed any exception and whatever rules the Blessed Lord made were voluntarily and willingly accepted by him and followed by him as much as by the bhikkhu.

United Nations conceived the philosophy of the protection of human rights and fundamental freedom as a reaction of international community against holocaust created in the World War II. Preamble to the UN charter reaffirms faith in fundamental human rights and in the dignity and worth of human person, in the equal rights of men and women. Spiritual horizon of India was under cloud when Prince Siddharth (Buddha) was born. Humanity was eclipsed. Under the religious sanction of the Brahmanical order, human sacrifice and animal sacrifice were rampant and abated. Hatred and discrimination against each other was legally nourished cunningly.

Bonded labor, exploitation, slavery, sexual abuses were common. Siddharth Buddha was grieved to see this stage. Finally he succeeded in discovering the antidote of all sufferings in the form of Dhama, a collection of very simple and clear elements of natural truth for the restoration of human rights and fundamental freedom.

Present study envisages critical analysis of Human rights perspectives in Buddhist philosophy, essential elements of human rights expressed and implied in Buddhism and its compatibility with modern concept of human rights and universal declaration of human rights.

Human Rights concept as per UDHR 1948

Universal declaration of human rights 1948 of United Nations is considered as a model for all human rights documents and charters. This thirty article declaration has also prompted and influenced other subsequent constitutions of the world including Indian constitution of 1950. It was adopted on 10th Dec. 1948 by General Assembly of the United Nations. Provisions of it constitute general principles of law of humanity (Bagde 2007).

The rights proclaimed by UDHR include right to life, liberty, security of person, equality before the law, privacy, marriage and protection of family life, social security, participation in government, work, protection against un employment, rest and leisure, a minimum standard of living, and enjoyment of arts, subject only to morality, public order and general welfare (Article

29.2).

As per Article 3 every one has right to life, liberty and security, while Article 4 states that no one shall be held in slavery or servitude. Some rights are claim rights and others are liberty rights as confirmed by Article 2. According to Article 29.1 every one has duties to the community in which alone the free and full development of his personality is possible.

Buddhist philosophy in relation to Universal Declaration Concept

There is intimate and vital relationship of Buddhist norm of Dhamma with that of human Rights. Buddhist sees the concept of human rights as a legal extension of human nature and it is crystallization or formalization of mutual respect and concern of all persons, stemming from human nature. Few would disagree with the proposition that human rights are grounded in human nature and human nature is the ultimate source of human rights. Rights are actually extensions of human qualities such as security, liberty and life.

It seems that modern Western notions of human rights are compatible with Buddhist elements of human rights, as Buddhist principles endorse principles of Universal Declaration of human rights. Thus Buddhism subscribes to universal human rights concept without any reservation or exceptions and all the articles are in harmony with early Buddhist teachings in letter and spirit. Every Article of Human Rights has been adumbrated, cogently upheld and meaningfully incorporated in an overall view of life and society by Buddha. Early Buddhist teachings were in harmony with the spirit of Universal Declaration of Human Rights. There is a broad agreement that Buddhist teachings contribute to contemporary human rights movements. According to Kenneth Inada (1982) there is an intimate and vital relationship between Buddhist Dhamma and human Rights. It is human nature that is more basic and larger issue in comparison to human rights according to Buddhism. Human rights concept is legal extension of human nature, it is indeed formalization of the mutual respect and concern for all persons which has stemmed from human nature. Therefore human rights are grounded in human nature. Human nature is the ultimate source of human rights and also rights are extensions of human qualities, like liberty, life and security. Also Buddhism credits the human personality with dignity and moral responsibility. Buddhism therefore contributes to an ethic of human rights.

Buddhist thought is in accord with Article 1 of 1 of UDHR which states "all human beings are born free and equal in dignity and rights" and other Articles of UNDHR (Perera, 1991) for the advancement of human beings. Universal rights are consistent with Buddhist morality, the most persuasive argument being based on the Buddhist

notion of compassion for all beings.

Dalai Lama, Buddhist Luminary and Philosopher on account of 50th anniversary of UNDHR in 1998 appealed that Buddhists must adopt an active approach to reduce suffering by active implementation of peace and human rights, including economic, social and cultural rights. Notions of rights have been derived from ethical principles and there is a clear convergence between Buddhist ethics and modern discussions on human rights. All human beings as per Buddhism are equal, and Buddhist concepts recognize the inherent dignity and the equal and inalienable rights of all human beings. Mane (2006).

Natural rights have been inalienable, they are not conferred by any judicial or political process nor can they be removed by these or other means. These natural rights of 17th and Eighteenth century are the forerunner of the contemporary notion of human rights. The concept of rights is virtually as old as civilization itself. Concept of right is implicit in classical Buddhism. All have reciprocal obligations which can be analyzed into rights and duties. Human rights were originally spoken of as natural rights. There seems to be nothing in any of the thirty articles of UNDHR to which Buddhism would take exception and they are in harmony with early Buddhist teachings both in letter and in spirit. Every Article of UNDHR even the labor rights to fair wages, leisure and welfare has been adumbrated, cogently upheld and meaningfully incorporated in an overall view of life and society by the Buddha. Hence, Buddhist teachings were in harmony with the spirit of Universal declaration of human Rights.

Unlike the article 2(7) of United Nations (UN) declaration in form of injunction placed for the interference in the domestic affairs of any sovereign state, Buddhism did not prescribe any such limitations. It travelled far and wide beyond Indian frontiers for the protection and restoration of human rights and fundamental freedom of the people of entire world.⁵ Buddhism was the custodian of human rights and fundamental freedom even before UN and other bodies became the custodians of human rights. Buddhism was the first religion to take active step against slavery, as Buddhist Monks were forbidden to keep slaves. They were also forbidden to accumulate wealth and own private property, forbidden from spiritual enslavement, Buddhism eliminated caste prejudice and hereditary distinctions between man and granted equal rights and equal status to every human being.

Buddhist penology contains the protection of human rights, human dignity and human worth, prescribing punishment but to bring transformation of the offenders' attitude and there is no place to retribution and sadism. The law of Buddha nips crime in the bud and therefore question of denial of human rights and fundamental freedom does not arise. Hence Buddhist Doctrine is supreme in comparison to the doctrine behind UDHR of UN of 1948. Buddhism indeed is supreme law of all laws existed so far in the province of human right protection and fundamental freedom. It transcends beyond the

realm of humans and reaches out to entire realm of beings for their protection. Buddhist doctrine yielded tremendous influence upon the thinking of the civilization that existed twenty five centuries before the birth of UN and UNDHR. It restored human rights and fundamental freedom without the force of legislation but by the compassion or persuasion.

The declaration of parliament of World's Religions

A Parliament of the World's Religions was held in Chicago in September 1993, with the aim to find out basic moral teachings in most of the religions and to reach a consensus if possible on moral values. Most of the religions in the world were represented in this convention including ethnic and minority groups. This interfaith convention adopted a declaration called Declaration towards a Global Ethic, wherein fundamental moral principles subscribed by all the religions of the world were incorporated. These principles are mostly related to human rights and dignity.

Buddhist schools namely Theravaada, Mahaayaana, Vairayaana and Zen were party to the discussion and Dalai Lama gave closing address of the convention. Global Ethic states "we make a commitment to respect life and dignity, individuality and diversity, so that every person is treated humanely". Every human being possesses an inalienable and untouchable dignity. Human Rights as construed in the modern era are compatible with Buddhist ethics. Concept of human rights is historically contingent while the teachings of the Buddha are not and certain values embodied in the notion of right are better served by the notion of right in the Noble Eight fold Path as Human rights is an extension of human nature. Although there is no specific Sanskrit or Palitem for the Western notion of rights the concept of rights is implicit in classical Buddhism.

Declaration towards Global Ethic has set out Fundamental moral principles which all religions of the world subscribe. Many of these principles are human Rights principles too. Hence Global Ethic sees the Universal recognition of human rights and dignity by the religions of the world, which is new global order. (Jayatilleke 1975).

Essential elements of Human Rights in Buddhism

Everyone has a role to play in sustaining and promoting social justice and orderliness. These rules are explained by Buddha very clearly as reciprocal duties with regard to parents and children, teachers and pupils, husband and wife, friends, relatives and neighbors, employer and employee, clergy and laity and no one has been left out. The duties are considered as sacred duties which create a just peaceful and harmonious society. Dharma therefore denotes not only what one is due to do but also what is due to one.

Thus, it indicates duty and subsequent or correlative right of the person in Buddhism. Concept of rights is not alien to Buddhist philosophy. It is implied. All have duties in form of reciprocal obligations that could be analyzed as rights and duties. Dharma of Buddhism determines duties expressly and rights are implied in nature. A husband has a duty to support his wife, while wives have right to be maintained. This is also the case with respect to other civilizations, cultures and religions including Roman law. Duties of one correspond to the entitlements of rights of others. While king or political authority is to dispense justice impartially, citizens may be said to have a right to just and impartial treatment before the law. Therefore notion of a right is very much there in Buddhism. A right useful concept which provides justice, its correlative duty provides another.

Buddhism originated in caste based society. As per doctrine of Buddhism, there is no self, means all are equal in most profound sense. Similar to Christian doctrine that all men are created equal, Buddhism doctrine provides ground for natural rights, except incarnation of this concept in express terminology.

According to Dr. Ambedkar, religion based on God and caste system is not a religion. It creates love for God and hate for man. The religion necessarily must have four ingredients viz. liberty, equality, fraternity and morality. If these elements are absent in any religion, that religion cannot be a religion. In the Dhamma of Buddha all these elements are present. It is worth and not the birth that determines the status of man. Dr. Ambedkar has consciously embraced Buddhism, attracted by its doctrine of social and spiritual equality. According to great Scientist Albert Einstein Buddhism have characteristics of what would be expected in a cosmic religion for the future, it transcends a personal god, avoids dogmas and theology, it covers both the natural and spiritual characteristics. If there is any religion that could cope with scientific needs, it would be Buddhism.

Buddhist view of reciprocal obligations or duties can be seen as an embryonic form of rights or as preconditions for rights in the modern Western sense. Duties and rights are correlative and reciprocal. Buddhism is as such committed to the cause of human rights. Many of the rights and liberties spelt out in human Rights charters are present in either expressed or implied form in moral teachings of Buddha. Also the prohibitions of Buddhism coincide with those of the various human rights manifestoes, which may be regarded as translation of religious precepts into the language of rights. Precepts are however in form of duties that arise from dharma. Since duties have their correlative in rights, precepts seek to promote them. Person who has right has a benefit, which is either a claim or a liberty. As per precepts right holder is one who suffers from the breach of Dharmic duty. In this terminology the victim has a right to life while the aggressor has a duty to respect it. Five precepts in

Buddhism are fundamental principles for promoting and perpetuating human welfare, peace and justice in form of fivefold disciplinary code for man to maintain justice in society.

An apparent difference between the moral teachings of Buddhism and human rights, charters is one form rather than substance. Human Rights can be extrapolated from Buddhist moral teachings. Resultantly a direct translation of the first four precepts yields right to life, a right not to have one's property stolen, a right to fidelity in marriage and a right not to be lied to. Similarly a right not to be held in slavery is implicit in prohibition on trade in living beings. These rights are the extrapolation of what is due under dharma and they have not been imported in to Buddhism but were implicitly present.

The necessary basis of doctrine of human rights has been set out in the third and fourth noble truths of Buddhism. Hence doctrine of human rights is present in Buddhist philosophy and it is legitimate to speak of both rights and human rights in Buddhism. Modern doctrines of human rights are in harmony with the moral values of classical Buddhism. Human good is the preoccupation of both modern ideas of human rights and philosophies of religions including Buddhism.

There is a broad agreement that Buddhist teachings can make potential contribution to an ethic of human rights. Human rights as construed in the modern west are compatible with Buddhist ethics. It seems that Buddhism is committed to the cause of human rights. In Buddhism as well as western languages for right, equivalent word in pali is uju (or ujju) meaning straight, direct, straight forward, honest, although there is no word in Sanskrit or pali which conveys the idea of right or rights understood as a subjective entitlement. In African tribal regimes of law, right and duty are usually covered by the single word derived from the form normally translated as ought. Hence it seems concept of a right may exist to where a word for it does not. In Buddhism dharma determines what is right and just in all contexts and from all perspectives. In Buddhism duties are sacred and reciprocal. A duty of one corresponds to the entitlements or rights of others. It means notion of right is present in classical Buddhism. Buddhism endorses the universal declaration of human rights and the Articles are in harmony with early Buddhist teachings both in letter and spirit.

An intimate and vital relationship of the Buddhist norm or Dhamma is there with that of human rights. In Buddhism human rights issue is ancillary to the larger or more basic issue of human nature and the concept of human rights is a legal extension of human nature. It is crystallization and formalization of the mutual respect and concern of all persons, stemming from human nature and hence human rights are grounded in human nature.

The right to life is clearly fundamental since it is the condition for the enjoyment of all other rights and freedom. The right to liberty and security of person

(Article- 3) is also basic to any understanding of human good as also slavery (Article -4), torture (Article -5) and the denial of right before the law (Article -6). Article -3 that no one shall be held in slavery is clearly implied in Article- 2. Thus, many of the thirty articles of UNDHR articulate the practical implication of a relatively small number of fundamental rights and freedom which are the basis of common good, human nature and its fulfillment, while Buddhism provides one view of human nature and its fulfillment. Similarly freedom of religion (Article-18) is vital to Buddhist vision. Human rights is an area in which religion have a legitimate and vital sake, and various human rights manifestos may be regarded as a translation of religious percepts into the language of rights. In this declaration lie enshrined certain values and norms emphasized by the major religions of the world.

Buddha started his mission of rebuilding the unjust social order on the pillars of love, compassion, maïtree, karuna, character, equality and brotherhood. Thus the foundation of Buddhism is based on human values, natural justice and equality. Contrary to the doctrine of inequality of Brahmanism, Buddha propounded the doctrine of equality, liberty and universal brotherhood. Buddha even recognized women's right to education and sociopolitical activity (Anand 2002). Buddha and Buddhism not only successfully revolted against the institution of caste but also provided an alternate way of life culture which is based on equality (Ambedkar 1999). Commenting on genesis of injustice and socioeconomic inequality in the Hindu social order Dr Ambedkar observed that men are borne equal is a doctrine repugnant to this social order as it does not admit the principle of equality and graded inequality is a fundamental principle. It recognizes slavery as a legal institution. Graded inequality has been in force in the economic life too. The first shall never become the last, not shall the last ever become the first.

This social order of inequality has been reversed in Buddhistsocial order. Buddha Dhamma has in it both hope as well as purpose. Its purpose is to remove Avijja means ignorance of the existence of suffering. There is hope in it because it shows the way to put an end to human sufferings. Twenty two vows administered by Dr. Ambedkar at the time of conversion to Buddhism in Nagpur, 1956 subscribe to believe in the principle that all human beings are equal and to endeavor to establish equality and he firmly believed that only Buddhism is Saddhamma. In fact it was not a conversion but liberation of Buddhists from Hinduism which was imposed upon them forcibly. The untouchables of today were the Buddhists of the ancient past because as per Dr. Ambedkar, conversion was their return to original faith to which they belonged in the ancient past. Atta Deepa Bhava of human society is the essence of whole teaching of Buddha, means be the light unto yourself. One's action is responsible for everything. In man's action lies his

salvation. Dr. Babasaheb Ambedkar piloted the constitution of India and therein enshrined the principles of liberty, equality, fraternity and secularism. The very source of these principles for Dr. Ambedkar was the Dhamma of Buddha. Buddha Dhamma has been interpreted by Dr. Ambedkar in his true perspective as original and not reinterpreted.

The foundation of the Buddha Dhamma in Dr. Ambedkars view is man and the (right) relation of man to man in his life on the earth. Dhamma of Buddha is for removal of the sufferings and ignorance of the people. Dhamma of Buddha is morality and morality is Dhamma. One must practice virtues that must be accompanied by Prajna (understanding), and intelligence. Prajna must be accompanied with Karuna (compassion) and every act of Paramita (perfection) must be tested by PrajnaParamita (wisdom), consciousness of what is right and what wrong conduct is and there must be Sila (character) and Prajna for a man, Maitri (friendship) must be accompanied for the human beings and also for all living beings. The character of human society is also emphasized by Buddha through five percepts (Panchasila) which expects refraining from injuring, taking that which is not given, sexual immorality, lying and drunkenness. Buddhist monks are teachers in the society. Each monk of the Sangha had an equal right and dignity to vote for or against any activity pertaining to the order. This democracy was blossomed and borne fruits in Indian soil while it was still seedling in Greek.

A new approach with regard to human rights and Doctrine of Ahimsa (not harming) has been discussed by Byrne (2006) from an environmental perspective which is an exploration of the modern phenomenon of environmental Buddhism and the ethics related to the Doctrine of Ahimsa. Societies, cultures and even religious ideas must be capable of evolving and keeping pace to remain relevant for the modern era. In some cases, however, such evolution of fundamentals may reverse a principle into its opposite as seen in modern Buddhism. For instance killing one species to protect another in the name of conservation, an environmentalism may cross the Buddhism boundaries.

CONCLUSION

Human rights elements are incorporated in teachings of Buddhism extensively. It is a matter of understanding those various elements.

Duties have been expressed more prominently in Buddhism, while Corresponding rights are implied therein rather than expressed. Duties have been expressly included in Indian Constitution by Article-51A part IVA by 42nd constitution Amendment Act 1975 and Human Rights have been included under fundamental Rights part III of the Indian constitution. Besides Human rights, duties

have been also incorporated in constitutions of many countries.

Human Rights concept got evolved through right, moral rights, natural rights leading ultimately to more expanded modern concept of human rights.

There is intimate and vital relationship of Buddhist norm of Dhamma with that of human Rights. Buddhist sees the concept of human rights as a legal extension of human nature; it is crystallization or formalization of mutual respect and concern of all persons, stemming from human nature. Human rights are grounded in human nature and human nature is the ultimate source of human rights.

Every Article of Human Rights in UNDHR has been upheld and meaningfully incorporated in an overall view of life and society by Buddha. Early Buddhist teachings were in harmony with the spirit of Universal Declaration of Human Rights.

Parliament of World's Religions adopted a declaration called Declaration towards a Global Ethic, wherein fundamental moral principles subscribed by all the religions of the world were incorporated. These principles are mostly related to human rights and dignity.

Buddhism was the custodian of human rights and fundamental freedom. Buddhism was the first religion to take active step against slavery, as Buddhist Monks were forbidden to keep slaves. Buddhism eliminated caste prejudice and hereditary distinctions between man and granted equal rights and equal status to every human being (Ambedkar 1999).

Buddhist penology contains the protection of human rights, human dignity and human worth, prescribing punishment to bring transformation of the offenders' attitude without retribution and sadism.

Buddhist doctrine yielded tremendous influence upon the thinking of the civilization that existed twenty five centuries before the birth of UN and UNDHR and restored human rights and fundamental freedom.

Buddhist doctrine provides ground for natural rights, except incarnation of this concept in express terminology. The religion necessarily must have ingredients like liberty, equality, fraternity and morality. In the Dhamma of Buddha all these elements are present.

Social elements present in the message of Buddha are part and parcel of modern day principles of human Rights.

REFERENCES

- Ambedkar BR (1984). *The Buddha and his Dhamma*, Third edition Bombay, Siddharth Publication. <http://www.worldcat.org/title/buddha-and-his-dhamma/oclc/21766929?referer=di&ht=edition>
- Ambedkar BR (1992). *Babasaheb Ambedkar's collected writings and speeches*, Education Department of Govt. of Maharashtra, Eleventh 11:121-122
- Ambedkar BR (1999). *Annihilation of Caste*. Ambedkar's collected writings and speeches Education Depart. Govt. Maharashtra. <http://ccnmtl.columbia.edu/projects/mmt/ambekar/web/>
- Ambedkar BR (1992). *The Buddha and his Dhamma*, First published in 1957, again published in 1979 (Education Department of Govt. of Maharashtra, Eleventh volume of Ambedkar's collected writings and speeches, 1992). <http://www.wattpad.com/story/12099089-the-buddha-and-his-dhamma>
- Anand SK (2002). *Buddha: The essence of Buddha and its practice Samruddha Bharat Publication*, Mumbai, India.
- Bagde US (2007). *A comparative study of human rights in world constitutions*, Mumbai: Aarti Book Company.
- Byrne CJ (2006). 'Would A Buddhist Freeze A Cane Toad? An Exploration of the Modern Phenomenon of Environmental Buddhism and the Ethics Related to the Doctrine of Ahimsa (Non-harming)', *Contemporary Buddhism, An Interdisciplinary J.* 2(7):117-127. <https://www.mugenproject.com/resources/45500>
- Demien K (1995). *Are there Human Rights in Buddhism?* *J. Buddhist Ethics* 2:3-27. <http://www.pac-its.psu.edu/pub/jbe/acrobat/keown.pdf>
- Finnis JM (1980). *Natural Law and Natural Rights*. Clarendon Law series, 2nd ed. London: Oxford. <http://www.amazon.com/Natural-Law-Rights-Clarendon/dp/0199599149>
- Jayatilleke KN (2010). *The Buddhist attitude to other religions*. The Wheel Publication No. 216. <http://www.bps.lk/olib/wh/wh216.pdf>
- Kenneth KI (1990). *A Buddhist response to the nature of human rights in Asian Perspectives on human rights*, eds. Clavde E. Jr Welch and Virginia A. Leary, (Boulder, Co: Westview Press, pp.91-103.). <http://www.tuvienquangduc.com.au/English/Ethics/25.nature.html>
- Mane S (2006). *Glimpses of socio cultural revolts in India*, Samruddh Bharat Publications, Social change 287p. http://books.google.com.ng/books/about/Glimpses_of_Socio_cultural_Revolts_in_In.html?id=9O8xMQAACAAJ&redir_esc=y
- Perera LPN (1991). *Buddhism and Human Rights*. A Buddhist Commentary on the Universal Declaration of human rights. Karunaratne & Sons, Buddhism 145p. http://books.google.com.ng/books/about/Buddhism_and_Human_Rights.html?id=9u6FAAAAMAAJ&redir_esc=y

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The background of the entire page is a photograph of a legal setting. In the upper left, a golden scale of justice is visible. In the lower right, a wooden gavel rests on a wooden surface. In the background, several books are stacked on a desk. The text is overlaid on this image.

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