

European Journal of Economics, Law and Politics (ELP)

2017 / June

Publisher:

**European Scientific Institute,
ESI**

Reviewed by the “European Journal of Economics, Law and Politics” editorial board 2017

June 2017 edition vol. 4, no. 2

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ISSN 2518-3761

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Sincerely,

Jose Noronha Rodrigues
ELP Editor in Chief

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Youth Unemployment and Economic Growth: Lesson From Low-Income Countries in Sub-Saharan Africa

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Doi: 10.19044/elp.v4no2a1 [URL:http://dx.doi.org/10.19044/elp.v4no2a1](http://dx.doi.org/10.19044/elp.v4no2a1)

Abstract

The paper examines the empirical relationship between youth unemployment rate and economic growth rate in low-income countries in Sub-Saharan Africa (SSA). To achieve the objectives of the paper, Panel Least Squares and Ordinary Least Squares techniques were adopted to estimate the model using annual data from 1991 to 2013. The paper found that the average GDP growth rate for low-income countries in SSA within the period of the study was 3.8 % while that of average youth unemployment rate was 9.4%. It was observed there exists negative relationships between youth unemployment and economic growth variables in the panel result while in the individual countries cases some countries were found to have positive relationship between the two variables of unemployment and economic growth rates indicating a case of non existence of Okun's law. Hence, the negative coefficients observed indicated the existence of Okun's law in some low-income countries. The findings, therefore, suggest that individual countries should create more jobs based on labour intensive industries, that the governments of these low-income countries should promote youth empowerment schemes by creating the needed policy environment, that the ratio of output growth needed to maintain stable level of youth unemployment rate could be sustained when there are boost in economic activities that will encouraged investment and employment. Few countries that exhibited positive relationship between youth unemployment rate and economic growth rate should focus more on how to increase the level of economic activities through the application of policy mix that would generate more investment in these countries.

Keywords: Panel Least Squares, Low-income countries, Youth unemployment, Economic growth.

1. Introduction

The region of Sub-Saharan Africa (SSA) has a rapidly growing population of youth with an average age of 18 years, but it is as low as 15 years in some countries like Niger and Chad. The SSA population below the age of 15 years grew by 150 percent between 1970 and 2005 and about 170 percent in 2011 (United Nations, Population Division, 2011). In 2013, youths in the Sub-Saharan Africa were twice likely to be unemployed compared to other age cohort. (World Bank, 2013).

Madito & Khumalo (2014) described the high unemployment rate and slow growth as the two challenges facing every nation regardless of the state of their economic and social development. The rate of unemployment has comparatively been high since the 1980s, as a result of the periods of unsteady economic growth which has been acknowledged as the major driver that had led to an increase in the rate of unemployment especially in SSA countries over the years. The high rate of unemployment has been found to affect the rate of GDP growth rate negatively; hence it also serves as a sign of the country's state of the economy as it determines how well the economy utilizes her human resource as well as other resources in the long-run.

Ebaidalla (2013) believed that the high youth population makes the situation of unemployment in general even more dangerous and complicated, as such a population structure has prompted the need to restructure the labour market in order to create more jobs which is expected to pose more pressure in the future, as demand for jobs in the SSA countries will continue to rise.

The national economic objectives towards which the macroeconomic policies are directed in the long-run in an economy include the attainment of full employment, which is a reduction of unemployment to a minimum level, the rapid economic growth over time, as well as a rising standard of living for the citizens (Obadan and Iyaho, 1996).

According to the United Nations (2015) the 2030 Agenda for sustainable development, the broad objective of Goal 8 is to promote an inclusive and sustainable economic growth, full and productive employment as well as decent work for all. Some of specific objectives include:

8.1 Sustain per capita economic growth in accordance with national circumstances and, in particular, at least 7 per cent gross domestic product growth per annum in the least developed countries

8.6 By 2020, substantially reduce the proportion of youth not in employment, education or training

8.8 By 2020, develop and operationalize a global strategy for youth employment and implement the Global Jobs Pact of the International Labour Organization

The Goal of the United Nation 2030 Agenda for sustainable development is centered on youth empowerment in order to achieve and sustainable development; this would be achieved when the SSA governments provide the enabling macroeconomic environment for investments for both local and foreign investors.

In the Sub-Saharan Africa economic growth rates are still not high enough to make true impact in the pervasive unemployment rates that will enable these countries of the Sub-Saharan Africa region to catch up with other developing countries (Nkurunziza and Bates, 2004). According to the World Bank Development Indicators (2014), low-income countries in SSA are: Burundi, Burkina Faso, Chad, Congo Democratic Republic, Gambia, Guinea-Bissau, Guinea, Ethiopia, Liberia, Mali, Malawi, Niger, Sierra-Leone, Tanzania, Uganda, Kenya, Benin, Central African Republic, Mozambique, Togo, Madagascar, Comoros and Zimbabwe.

To examine how economic cycle influences unemployment, there is a need to have an understanding of the relationship between unemployment and economic growth as empirically examined by the American economist Arthur Okun in a seminal paper in 1962. He found out that there exist a negative relationship between unemployment and economic growth. This inverse relationship between unemployment and economic growth is identified as the Okun's law. Okun's analysis was on United States data for the period 1947-1957. He postulated that a one percent increase in unemployment would result in more than three percent loss in economic growth.

The present economic circumstances of the low-income countries in Sub-Saharan Africa are marred with high youth unemployment rate owing to the activities of political leaders as a result of mismanagement of resources and adverse macro-economic policies of various governments, by not channeling human and natural resources into profitable investment that are needed to yield the maximum economic growth. As a result some of the countries of Sub-Saharan Africa have been faced with severe economic and social costs that are connected with youth unemployment. The unemployed youth are more likely to engage in criminal activities, particularly armed robbery, as evidenced by events in some countries. Also, high risk and self-destructive activities as terrorists and suicide bombers as well as the recruitment of young combatants for armed conflicts, which are harmful to the Sub-Saharan Africa economies in general (Obadan, 1997 and Fosu, 2005).

Although the empirical study of Okun's has indeed blossomed, especially in most studies of the developed countries, little attention has been paid to study whether Okun's type relationship is applicable within low income countries in Sub-Saharan Africa. These previous studies before now

did not consider the connection between youth unemployment rate and economic growth rate of low income countries in Sub-Saharan Africa based on the World Bank classification of countries into different income groups. Hence, there appears to be a serious knowledge gap that calls for research studies in Sub-Saharan Africa region using low income countries. Based on this statement of the problem and the identified research gap, the objective of the paper is to determine the relationship between youth unemployment and economic growth. In addition, the paper sought to determine minimum growth rate that is needed to sustain minimum level of youth unemployment rate. The paper divided into the following sections: introduction, literature review in section two, section three theoretical framework and methodology, while section four presents the empirical results its analyses. Section five contains the summary, conclusion and recommendations of the paper.

2. Literature Review

2.1 Empirical Literature Review

Okun (1962) used data on the quarter to quarter growth rate of the real gross national product (GNP) and quarter to quarter difference in the unemployment rate from 1947 to 1960. According to Okun (1962), he estimated that if real GNP growth were held at zero the unemployment rate would grow at 0.3 percentage points, on average, from one quarter to next. Also, for each one percentage-point increase in real GNP growth, the unemployment rate would decrease by 0.3 percentage points. Reversing the causality, a 1 percent increase in unemployment will mean roughly more than three percent loss in GDP growth.

Smith (1975), Gordon (1984), Prachowny (1993), Weber (1995), Lee (2000) & Freeman (2001) re-estimated the Okun's relations based on US data and other countries data such as that of Lee (2000) who did a comprehensive study on Okun's law in terms of the number of countries, model specification, and econometric technique confirmed the negative relationship between unemployment rate and that of the output growth. Kaufman (1988), Lee (2000) & Moosa (1999) examined the Okun's relationship to ascertain the robustness based on a cross-country that is six industrial countries, sixteen organizations of economic cooperative development (OECD) countries and G7 countries.

Grant (2002) & Moosa (1997) examined the sign and the magnitude of Okun's coefficient in different specifications and for different countries. They found that there exists several strategies to decompose output into its trend and cyclical component, and they yielded different quantitative estimates.

Salman (2012) believed that the relationship between real GDP and unemployment is determined by such factors as technological change, laws,

labour market politics and transitions, demand, welfare benefits, population change, global competition and privatization, it is believed that the Okun's coefficient changes over time. Some economists have shown that GDP fluctuations have considerable consequences on the unemployment rate in a given economic environment. As opined by Lee (2000), these consequences are expected to be different in industrialized countries and in the United States. However, it now appears that Okun's law might actually be quite a vital instrument in making good comparisons across countries overtime.

Some studies have contrasting results to Okun's law such as that of Tingi & Lingi (2011) for Malaysia and Habees & Rumman (2012) for Arabian countries and Jordan that indicated that there is no absolute relation between unemployment and growth. Again, Lal, Muhammad, Jalil & Hussain (2010) in their studies of some developing Asian countries indicated that Okun's law is not applicable. There are several other disagreements among several economists concerning the test of Okun's law applicability, as observed by Bankole & Fatai (2013) who estimated that the hypothesis is invalid for Nigeria. Contrary to their findings, Amossoma and Nwosa (2013) found that the Okun's law was valid for Nigeria. In terms of the application of the Okun's law to age group in terms of young population and old population in Euro zone from the work of Hutengs & Stadtmann (2012), it was observed that there exist a strong validity for young population and weak validity for old population. The strongest decline in Okun's coefficient is observed among young people of age 15-24 years. This indicates that young people are indeed most vulnerable to unemployment problem.

Salman (2012) agreed that there is a statistical and negative relationship that existed and the items of unemployment such as total unemployment, male and female unemployment based on the Swedish data.

Saint-Paul (1993) argued that there is a positive relationship between unemployment and productivity growth. While Davis & Haltiwanger (1992) suggested that there exist some possibility of a positive long-run relationship between growth and unemployment, since they showed that periods of high unemployment tend to be periods of high job-turn-over at the establishment level.

Caballero (1993) in his studies revealed that there exists a weak positive relationship between growth and unemployment in the UK and US between 1966 and 1989. High unemployment may have an adverse effect on growth in the presence of a learning-by-doing, reduction of the pool saving available for investment in physical or human capital activities.

Again ILO (2011) report highlights that there is a vicious cycle of a weaker economy affecting job and society, in turn depressing real investment and consumption, thus economy and so on. Yet, the report also states, not

enough attention has been paid to jobs as a key driver of the growth of the economy.

Knotek (2007) examined the constancy of the Okun's relationship and found that there is an asymmetric behaviour with output effect being more severe upon unemployment when the economy is in depression. Moazzami and Dadgostar (2009) examined the essential distinction between short-term and long-term effects of Okun's relationship; they found out that the short run effects are in general weaker than the long-term ones.

3. Theoretical Framework and Methodology

3.1 Theoretical Framework

The relationship between economic growth and the unemployment rate based on theoretical linkage could be traced to one school of economic thought to another. The classical economist's school of thought believed that the connection between economic growth and unemployment is a one-way linkage that exists between the inputs of labour to economic growth. According to Kaldor (1967) as cited in Obadan & Odusola (2000) in invoking the Verdoorn's law states that faster growth of output is responsible for a faster growth of productivity.

The positive relationship that exists between employment and economic growth was also confirmed by Dernburg & McDougall (1985). Also from the view of the classical economists referring to Cobb-Douglas production function based on the technical links between output and the inputs such as labour and capital. The model indicated that the level of labour force assuming other variable is assumed to be constant help to determine the growth rate of output.

From the Keynesian economists' angle, the issue of output (economic growth) and unemployment is explained in terms of aggregate demand. The Keynesians believed that the demand for labour as a case of derived demand. The Keynesian theoretical linkages for economic growth and unemployment as analyzed by Hussain & Nadol (1997), Thirlwal (1997) and Grill and Zanalda (1995) states that increase in employment, technological change and capital stock are largely endogenous.

In a nut-shell, the growth of employment/unemployment is the determinants of long term increase in economic growth influenced by the level of unemployment/employment rate of a country.

The theoretical connection of economic growth and unemployment began with the works of Harrod (1936), Domar (1947) & Solow (1956) in their investigation of the issue of the long-run unemployment in influencing the level of economic growth. The extension of the Keynesian model could be found in the studies of Okun (19962). Theoretically Okun's law establishes the linkages between economic growth rate and unemployment

rate, which he ascertained empirically to be negative. Okun's law is seen as a benchmark for determining the economic well-being of a country.

3.2 Methodology

This section provides an estimation approach that captures the relationship that exists between economic growth rate and youth unemployment rate. The paper estimation is based on data from a cross section of low-income countries in Sub-Saharan Africa with respect to the classification of the World Bank Development Indicators (2014) of countries into income groups. In order to examine the relationship between youth unemployment rate and economic growth rate within low-income countries in Sub-Saharan Africa, the paper used annual time series data in line with the studies of Moosa (1997) & Viren (2001). Hence based on this study, empirical analyses would be done on annual data of twenty-three (23) low-income countries in Sub-Saharan Africa for the period 1991-2013.

3.2.1 Model Specification

The first difference version model of Okun's used the first difference of GDP growth rate and that of unemployment rate. The difference version has purely statistical and simple calculations which can be directly evaluated from the available empirical data. (Hilmer and Hilmer 2014). Hence, based on the knowledge gained from theoretical and empirical literature, this study will adopt the first difference version model of Okun's equation. The interest of the paper is to determine how change in unemployment rate affects economic growth rate in low-income countries in SSA.

According to Barreto & Howland (1993) believed that the direction of the regression, that is economic growth regressed on unemployment or unemployment regressed on economic growth is determined by the researcher research question.

The standard first difference version of Okun's equation is given as follows:

$$U_t - U_{t-1} = \alpha + \beta(Y_t - Y_{t-1}) + e_t \quad (1)$$

This can again be expressed as:

$$U_{i,t} - U_{i,t-1} = \alpha + \beta(Y_{i,t} - Y_{i,t-1}) + e_{i,t} \quad (2)$$

Where $i = 1, 2, 3, 4 \dots m$, countries.

$t = 1, 2, 3, \dots n$, years.

Where: $U_{i,t}$ = the observed youth unemployment rate of countries i .

$Y_{i,t}$ = the GDP growth rate (economic growth rate) of low-income countries within the Sub-Saharan Africa.

α = the intercept, which indicates the average economic growth of full-employment output (potential output). β = the Okun's coefficient,

which was estimated by Okun to be negative ($\beta < 0$). The term β shows the variation in changes in economic growth rate as a result of a unit change in unemployment rate.

$e_{i,t}$ = error term. The error term is assumed to contain some different information such as factors affecting the dependent variable that are not used as the independent variables, specification errors, and the issues concerning the inherent randomness in human character (Hilmer *et al.*, 2014)

The rate of output growth needed for a stable unemployment rate will be

determined based on the formula: Rate of output ratio $= -\left(\frac{\alpha}{-\beta}\right)$

(3)

Equation (3) indicates the ratio of how much the economy of a country must grow to sustain a stable level of unemployment rate.

The value $\frac{\alpha}{\beta}$ is the minimum level of output growth needed to reduce the unemployment rate (Knotek, 2007).

Therefore the empirical model for the paper is expressed as follows:

$$YUN_{i,t} - YUN_{i,t-1} = \alpha + \beta(GGR_{i,t} - GGR_{i,t-1}) + e_{i,t} \quad (4)$$

Where: YUN= youth unemployment rate

GGR= GDP growth rate

e_t = the error term.

$\beta < 0$ that is the expected a priori in the above equations 4-5 are expected to be negative respectively.

4. Data Analyses and Presentation of Results

4.1 Descriptive Statistics

Table 4.1.1 below shows the summary statistics of variables used in the paper study for low-income countries in SSA based on the World Bank classification of countries into income groups. The descriptive statistics results revealed that on average, the GDP growth rate (GGR) for low income countries stood on average at 3.82, the mean for youth unemployment was 9.38. The result imply on average that the GDP growth rate for low income countries within the Sub-Saharan Africa grow low and within the sample period.

Table 4.1.1 Descriptive Statistics for Low Income Countries in SSA

	<i>GGR</i>	<i>YUN</i>
Mean	3.82	9.38
Standard Deviation	8.14	4.22
Number of Observations	529	529
Number of Countries	23	23

Source: Author's Estimation Result (2017)

Based on the correlation matrix results presented in Table 4.1.2 below which depicts correlation among the variables. As expected, the youth unemployment variable and economic growth rate variable revealed a negative relationship which therefore shows that there exists an inverse connection between youth unemployment rate and economic growth rate in low-income countries in SSA as expected based on Okun's law (1962). The negative value of the correlation matrix also implies that movements of all the variables tend to be in the same.

Table 4.1.2: Correlation Matrix for 23 low-Income Countries in SSA (1991-2013)

	<i>GGR</i>	<i>YUN</i>
<i>GGR</i>	1	-0.0889
<i>YUN</i>	-0.0889	1

Source: Author's Correlation Results (2017)

4.2 Presentation of Empirical Results.

This paper section examines the degree to which the independent variable (economic growth rate) impacted on youth unemployment rate. Generally, the results will help to depict a significant inverse relationship between two variables based on panel data set from 1991 to 2013. The overall sample comprises 23 low-income countries in SSA. The calculations of the rate of the output growth rate needed to maintain stable youth unemployment were done for all countries within the sample period. EView 8.0 computer econometric software was employed in running the estimation results.

Table 4.2.1: Panel Least Squares Estimation Results for the overall sample of SSA countries. Youth unemployment rate (YUN) as the dependent variable and Economic growth rate (GGR) as the independent Variable.

Category of Countries	<i>AGGR</i>	<i>AYUN</i>	α	β	t-stat	Prob. Value	<i>R</i>
23 Low-income	3.8	9.4	5.423	-0.171	-2.049**	0.041	31.71

Source: Author's Estimation Results (2017)

Note: *AGGR* = Average GDP growth rate, *AYUN* = average youth unemployment rate, α =intercept, β =Okun's coefficient, *R*=rate of output ratio = $-\left(\frac{\alpha}{-\beta}\right)$

***/**/* represents significance at 1%, 5% and 10% level.

Table 4.2.1 above represents the average statistics values and panel estimation results for the relationship between economic growth rate and youth unemployment rate in low-income countries in SSA. The average youth unemployment rate (AYUN) is 9.4 and average GGR is 3.8 for low income countries within the timeframe of the paper study. The estimation results based on panel least squares revealed that the t-statistic value for low income countries was significant at 5% level. The Okun's coefficient (β) was observed to have a negative sign indicating that a unit reduction in youth unemployment rate would result in 0.171percent economic growth rate in low income countries of SSA and the calculated rate of output growth required to have a stable youth unemployment rate was observed to be 31.71 percent. The result for the Okun's coefficient for the youth or young population disagreed with the previous results obtained by Zanin (2014) who observed that there exists a higher Okun's coefficient for youth unemployment. However, the various estimated average statistical value indicated that young people are more vulnerable to unemployment problem in low-income countries in SSA. The main reason for the low Okun's coefficient in the low-income countries in SSA is due the high rate of youth unemployment rate and low GDP growth rate as against that of the developed countries with higher GDP growth rate and moderate level of youth unemployment rate.

Table 4.2.2: OLS Estimation Results for Low-Income Countries in SSA. Youth unemployment rate (YUN) as the dependent variable and Economic growth rate (GGR) as the independent variable.

Countries	AYUN	AGGR	α	β	t-stat	Prob. Value	R
Burundi	10.9	1.2	100.73	-9.17	-2.95**	0.008	10.99
Burkina Faso	4.5	5.7	9.72	-0.89	-0.95	0.354	10.92
Chad	10.7	6.0	296.88	-27.16	-9.27***	0.000	10.93
Congo D. R	15.0	0.6	259.04	-17.24	-26.71***	0.000	15.03
Gambia	10.8	3.4	215.48	-19.64	-8.03***	0.000	10.97
Guinea-Bissau	10.9	1.8	242.85	-22.22	-9.52***	0.000	10.93
Guinea	2.0	3.3	1.73	0.78	1.06	0.300	2.22
Ethiopia	9.2	6.4	3.53	0.31	0.54	0.593	11.39
Liberia	4.8	8.9	242.93	-48.66	-0.81	0.425	4.99
Mali	10.8	4.6	4.28	0.03	0.01	0.991	142.67
Malawi	13.5	4.1	272.25	-19.88	-21.55***	0.000	13.70
Niger	6.8	3.6	200.43	-29.00	-5.22***	0.000	6.91
Sierra-Leone	12.7	2.6	-9.25	0.93	1.98**	0.062	9.95
Tanzania	6.8	5.2	9.60	-0.64	-2.34**	0.029	15.00
Uganda	5.4	6.8	7.26	-0.09	-0.22	0.828	80.67
Kenya	17.1	3.4	270.76	-15.62	-11.20***	0.000	17.33
Benin	1.5	4.3	6.07	-1.20	-1.93**	0.068	5.06
Central African Republic	10.9	1.4	249.4	-22.77	-13.30***	0.000	10.95

Mozambique	14.3	6.7	195.43	-13.22	-10.42***	0.000	14.78
Togo	10.9	2.8	270.60	-24.68	-8.61***	0.000	10.96
Madagascar	4.6	2.7	5.34	-0.59	-0.91	0.374	9.05
Comoros	10.6	2.2	339.71	-31.73	-5.27***	0.000	10.71
Zimbabwe	11.1	0.02	-6.89	0.63	0.96	0.346	10.94

Source: Author's Estimation Results (2017)

Where: ***/**/* represents significance at 1%, 5% and 10% level.

AYUN= average youth unemployment rate

AGGR= average economic growth rate

α = Intercept term

β = Okun's coefficient

$$\text{Rate of output growth (} R \text{)} = -\left(\frac{\alpha}{-\beta}\right)$$

In order to ascertain whether the youth populations are more affected with unemployment in SSA countries especially among the low-income countries in SSA, the empirical relationship between economic growth and youth unemployment variables were determined.

Table 4.2.2 above shows 23 low income countries in SSA. The Okun's coefficients of 18 out of the 23 countries revealed the existence of the negative relationship between economic growth rate and youth unemployment rate. While countries such as Guinea, Ethiopia, Sierra-Leone, Zimbabwe and Mali were found to have positive coefficients which indicated the non-existence of Okun's relationship between economic growth rate and youth unemployment rate in these countries indicated a case of non-inclusive growth without development in these countries. The individual countries OLS estimation results revealed that 14 countries individual t-statistic results were found to be statistically significant either at 1%, 5% or 10% levels. The Okun's coefficient values were observed to vary significantly among the low-income countries. Countries such as Burkina Faso, Guinea, Ethiopia, Mali, Sierra-Leone, Tanzania, Uganda, Madagascar and Zimbabwe had a very low magnitudes of the Okun's coefficients indicating that a unit reduction in youth unemployment rate would result approximately 0.96 percent economic growth for Zimbabwe, while in Mali would result in 0.03 percent.

Within the low-income countries some of them were observed to have higher Okun's coefficients such as Gambia, Guinea-Bissau, Malawi and Central African Republic as shown in table 4.2.2. The calculated rate (R) of output growth needed to maintain a minimum level of a stable youth unemployment rates were observed to be very high for these low-income countries as shown in table 4.2.2 above. The highest rate was observed in Uganda with 80.67 percent while other countries need an average range of 11% to sustain a stable rate of youth unemployment rate. As shown in table

4.2.1 the average youth unemployment rate for low-income countries is 9.4 percent, but countries such as Burundi, Gambia, Mali, Sierra-Leone, Central-African Republic, Mozambique and Togo had their average youth unemployment to be higher than the overall average of youth unemployment rate for low-income countries. While countries such as Burkina-Faso, Guinea, Liberia, Niger, Uganda, Benin and Madagascar had low average youth unemployment rates as shown in table 4.2.2.

5.0 Summary, Conclusions and Recommendations

The paper explored the relationship between economic growth rate and youth unemployment rate in low-income countries in SSA by estimating Okun's coefficients. The data used covered a time frame of 1991 to 2013 period on annual basis and 23 low-income countries within SSA region were considered; it employed panel least squares and ordinary least squares empirical techniques to determine the relationship between economic growth and youth unemployment. The various statistical as well as empirical results were quite revealing indicating the inverse relationship between economic growth rate and youth unemployment rate in some cases, which further indicated the existence of Okun's law and its applicability within some low-income countries in SSA. The paper indicated that the Okun's coefficients vary across countries in terms of its coefficient magnitude.

The findings, therefore, presents a policy challenge considering the huge economic, political and as well as social costs associated with youth unemployment problems in low-income countries in SSA. These challenges can best be handled on individual countries as well as regional basis by the creation of more jobs based on labour intensive industries in these low-income countries in SSA, that the governments of these low-income countries should promote youth empowerment schemes by creating the needed policy environment, that the ratio of output growth needed to maintain stable level of youth unemployment rate could be sustained when there are boost in economic activities that will encouraged investment and employment. Few countries that exhibited positive relationship between youth unemployment rate and economic growth rate should focus more on how to increase the level of economic growth rate.

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Disinheritance Against The EU Regulation on Succession (No. 650/2012) Polish Law Perspective

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Doi: 10.19044/elp.v4no2a2 [URL:http://dx.doi.org/10.19044/elp.v4no2a2](http://dx.doi.org/10.19044/elp.v4no2a2)

Abstract

The disposition of disinheritance, which as part of the freedom of the assets disposition in the event of death, interferes with the legislative solutions protecting persons close to the deceased. This institution is not uniformly understood and regulated in national laws of the EU countries. Moreover, the legal systems of some those countries do not provide for disinheritance. Therefore, in connection with the entry into force of the EU Regulation No. 650/2012 on succession, the practical application of this institution appears to be problematic even at first glance. Therefore, the author believes that it seems necessary to present the disposition of disinheritance and the possible consequences of its use arising from the entry into force of the EU Regulation No. 650/2012 on succession. Because it is not possible to present all European solutions in one [scientific] article, the subject of author's presentation is the situation in which the law applicable to inheritance cases against the EU Regulation No. 650/2012 on succession is the Polish law.

Keywords: Disinheritance, EU Regulation on succession, inheritance, succession.

1. Introduction

17 August 2015 was the date from which most of the European Union (EU) countries began to apply the provisions of the Regulation (EU) No 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession¹. By unifying the principles of the conflict-of-laws rules for

¹ OJ L 201 of 27.2.2012, 107-134.

succession in the European Union, this act introduces a number of changes, which in many places can be called revolutionary². One such area of this regulation is the designation of a connector for the law applicable to cross-border inheritance cases. According to Art. 21 of this Act such a connector is the law of the State in which the deceased had his/her habitual residence at the time of death³. Because under Art. 23 of this regulation, the law determined in accordance with Art. 21 of this regulation shall govern all the inheritance matters of a deceased natural person, a number of issues relating to the domestic law of succession require a reminder. It turns out that in the absence of the national law choice (which is allowed by Art. 22 of the Regulation) substantive law of the country of the testator's habitual residence will be the applicable law to determine the way of an appointment to the inheritance, the beneficiaries of this appointment and their shares, responsibility for the debts of inheritance or the obligation to return or credit donations towards the inheritance estate⁴. In this context, the issues concerning drawing up a will and dispositions contained therein are also important. The latter category includes the disposition of disinheritance, which as part of the freedom of the assets disposition in the event of death interferes with the legislative solutions protecting persons close to the deceased. This institution is not uniformly understood and regulated in national laws of the EU countries⁵. Moreover, the legal systems of some those countries do not provide for disinheritance. Therefore, in connection with the entry into force of the EU Regulation No. 650/2012 on succession, the practical application of this institution appears to be problematic even at first glance. Therefore, it seems necessary to present this institution and the possible consequences of its use arising from the entry into force of the EU Regulation No. 650/2012 on succession.

Because it is not possible to present all European solutions in one [scientific] article, the subject of this presentation will be solutions known to Polish law, which are not widely known, despite the fact that in Poland the discussion about the recodification of the law on succession has been going on for some time. Choosing Polish law is further justified by the fact that

2 N. C. Barreda, 'Reflexiones sobre los regímenes especiales en Derecho internacional privado sucesorio según el Reglamento europeo 650 / 2012 de 4 de julio de 2012', (2012) 6 *Cuadernos de Derecho Transnacional* 1, 122 et seq.

3 P. Lagarde, in U. Bergquist, R. Frimiston, F. Odersky, D. Damascelli, P. Lagarde, B. Reinhartz, *Commentaire du règlement européen sur les successions* (Daloz, 2015), chapter 3.

4 M. Załucki, 'New Revolutionary European Regulation on Succession MATters. Key Issues and Doubts', (2016) 3 *Revista de Derecho Civil* 1, 165-176.

5 Cf, for example, E. A. I Amayuelas, E. F. Amorós, 'Kinship Bonds and Emotional Ties: Lack of a Family Relationship as Ground for Disinheritance', (2016) 24 *European Review of Private Law* 2, 203-222.

Polish law on succession will often be the law applicable to inheritance cases of foreigners with their habitual residence in Poland. Poland as a country is an increasingly popular country for habitual residence of many EU citizens. Bringing the Polish solutions in this field to a wider range of readers can also be justified by the fact that Polish law may be the law applicable to Poles living abroad in another EU country, with habitual residence there, in connection with the jurisdiction of the court of that State regarding an inheritance case of a deceased Pole.

Describing the Polish solutions also is also valuable because it may allow testators to take possible steps to exclude the application of Polish law, or to the contrary, to encourage them to choose this law, instead of their national law, within the framework of the so-called *estate planning*. Therefore, the purpose of this article is to identify the legal nature of disinheritance by the Polish normative solutions with regard to the provisions of the EU regulation on succession.

2. The concept and construction of disinheritance

Disinheritance is an institution of inheritance law that aims to deprive a successor of a benefit from the estate by a testator's intention⁶. This legal construction is strongly linked to the freedom of the property disposition and as one of its elements is subject to legal protection⁷. In modern legislation, the testator can change the order of succession, including the decision to deprive a given successor of not only a participation, which would fall to him/her if there was statutory succession, but also depriving him/her of the obligatory portion of the inheritance estate, which in most legal systems is awarded to the members of the testator's immediate family⁸. The successor's adherence to certain ethical, moral or legal principles towards the testator, as well as third persons, is therefore an important element to be evaluated in the course of the inheritance mechanism. The effects of this evaluation may vary and they primarily depend on the shape of the various legal institutions in the system, including the legal construction of disinheritance. According to the prevailing view of the doctrine, disinheritance is understood in the world generally as an institution of private law, by which the testator disposes

6 J. Dukeminier, R. H. Sitkoff, *Wills, Trusts and Estates* (Wolters Kluwer, 2013) 556 et seq.

7 L. Michalski, *BGB-Erbrecht* (C.F.Müller, 2010), 157.

8 On the differences between the various legal systems see, for example: W. Fratcher, 'Protection of the Family against Disinheritance in American law', (1965) 14 *International and Comparative Law Quarterly*, 293 et seq.; I. Kondyli, *La protection de la famille par la reserve héréditaire en droits français et grec compares*, (Librairie Générale de Droit et de Jurisprudence, 1997), 1 et seq.; M. Puelinckx-Coene, 'La Protection des Différents Membres de la Famille par le Droit Familial Patrimonial en Europe', (2004) 12 *European Review of Private Law* 2, 143-166; M. Załucki, *European Uniform Inheritance Law. Myth, Dream or Reality of the Future*, (AFM Publishing House, 2015), 105-128.

negatively in the event of death - in the circle of his/her statutory successors who have special rights under inheritance law because of certain bonds between them and the testator⁹. It is an instrument for exclusion from inheritance, depriving successors of all the benefits of the inheritance estate¹⁰ or a tool to dispose of assets in the event of death - in line with the testator's expected intention¹¹. It is used when the bonds linking the testator and the successor are affected by the latter, especially in moral or ethical terms.

Disinheritance is an institution known to the legal systems of many EU countries. Appropriate solutions in this regard are provided, e.g. by the German, Austrian, Swiss or Polish legislation. There are also systems that do not provide *expressis verbis* for such an institution in the provisions of the law. These legislations include French, Dutch and English law. This does not mean, however, that the mechanism of depriving the successor of the benefit of the inheritance estate is not known to these systems¹². The differences in construing disinheritance, however, are considerable, making the practical use of this institution problematic, in particular in cross-border inheritance cases. According to Art. 23 Par. 2 Point d) of the regulation No 650/2012, disinheritance is one of the institutions subject to the law applicable to the inheritance established under the provisions of the Regulation¹³. Whenever Polish law turns out to be the law applicable to the inheritance, the validity and effectiveness of the disinheritance disposition will be determined by the regulations of Polish law, even if the disposition of disinheritance was made on the basis of another legal system (if this law does not turn out to be the law applicable to the inheritance). Polish legislation is one of the legal systems that uses and regulates disinheritance through statutory provisions. Disinheritance in the Polish legislation is one of the legal institutions, the effect of which is to exclude the successor of inheritance. Ethical and moral considerations are central to this institution in Polish law. The testator makes a decision to deprive a given person of certain potential benefits of the estate based on them. Although this decision is a manifestation of the testator's autonomy of intention, it must be based on the statutory standard of disinheritance. Only the elements of the disposition that satisfy the requirements under the law achieves the legal effect of disinheritance.

⁹ Cf W. Zimmermann, *Der Verlust der Erbschaft. Enterbung, Pflichtteilsschmälerung, Erb- und Pflichtteilsunwürdigkeit*, (Erich Schmidt Verlag, 2006), 79.

¹⁰ K.E. Wehnert, *Die Enterbung bei unwirksamkeit Testamentarischer Bestimmungen*, (Marburg Universität Dissertationen, 1987), 21.

¹¹ R. Chester, Should American Children Be Protected Against Disinheritance, (1997) 32 Real Property Probate and Trust Journal 3, 2.

¹² Cf M. Załucki, *Wydzielnienie w prawie polskim na tle porównawczym*, (Wolters Kluwer, 2010), 163-298.

¹³ J. Carrascosa González, *El Reglamento Sucesorio Europeo 650/2012 de 4 julio 2012. Análisis crítico*, (Editorial Comares, 2014) 167, 178-179.

Disinheritance has been regulated quite precisely under Polish law. The law provides the normative meaning of this concept, introduces a closed list of conditions necessary to be fulfilled for disinheritance to be effective and, finally, provides the result of disinheritance, which is the deprivation of the entitlement to the legitim¹⁴. The construction of disinheritance occurring *de lege lata* in Polish law allows the testator to punish the successor for certain reprehensible behaviour that is included in the list formulated by the legislator.¹⁵

According to Art. 1008 of the Civil Code “The testator may in his will deprive his/her descendants, spouse and parents of the legitim (disinheritance) if they are eligible for the legitim; 1) against the testator's intention, they act persistently in a manner contrary to the principles of social coexistence; 2) they have intentionally committed a crime against the testator or a person close to him/her threatening his/her life, health or freedom or have grossly affronted his/her dignity; 3) they persistently fail to perform family obligations with regard to the testator”¹⁶. According to such a legal construction, the testator by the act of his/her intention expressed in his/her will may deprive the eligible persons of the legitim based on their negative behaviour in relation to the testator or the person close to him/her.¹⁷

The provision of Art. 1008 of the Civil Code establishes a legal definition of disinheritance.¹⁸ According to Polish law, disinheritance (*wydziedziczenie*) is a deprivation of the legitim and not other entitlements from certain persons in the event of the testator's death.¹⁹ In addition, the deprivation of the statutory successor's status cannot be regarded as disinheritance.²⁰ Only a disposition which aims to deprive the eligible person of the right to the legitim can be classified as disinheritance.²¹ This should not be interpreted as a simultaneous deprivation of the legitim in

¹⁴ In civil law, the legitim is the part of an estate that children or another close relative can claim against the deceased's testament. Cf A. Verbeke, *De legitieme ontbloot of dood? Leve de echtgenoot!*, (Kluwer, 2002), 17 et seq.

¹⁵ M. Pogonowski, ‘Wydziedziczenie. Zarys problematyki’, (2005) 15 *Rejent* 4, 121-131.

¹⁶ A. Rojek, ‘Wydziedziczenie i testament negatywny’, (2006) *Przełęcz Sądowy* 9, 105-117.

¹⁷ J. Ignaczewski, *Prawo spadkowe. Komentarz*, (C.H. Beck, 2004), 247-239.

¹⁸ B. Kordasiewicz, in B. Kordasiewicz (ed.), *System prawa prywatnego. Prawo spadkowe*, (C.H. Beck, 2013), 954 et seq.

¹⁹ For example, the spouse and other persons related to the deceased who lived with him until the day of his death shall be entitled to use, during three months from the opening of the inheritance, the living accommodation and its household equipment as before. The disposition of the deceased precluding or limiting that right shall be null and void (Cf Art. 923 § 1 of the Civil Code).

²⁰ Cf M. Pazdan, in K. Pietrzykowski (ed.) *Kodeks cywilny. Komentarz*, (C.H. Beck, 2000), 902.

²¹ E. Skowrońska-Bocian, J. Wierciński, in J. Gudowski (ed.) *Kodeks cywilny. Komentarz. Spadki*, (Lexis Nexis, 2013), 254.

relation to all eligible persons, which could be suggested by the text of Art. 1008 of the Civil Code.²² It is sufficient for disinheritance to occur if any eligible for the legitim (i.e. a descendent, spouse or parent) is deprived of it.

This regulatory framework defines the views of the doctrine. According to the widely accepted position, disinheritance in Polish law means the deprivation of the legitim. This treatment is characteristic of most statements on this subject. It is reflected in available commentaries to the Civil Code and textbooks of law on succession. They generally indicate that disinheritance takes place in the event when the testator deprives their descendants, spouse and parents - so people formally eligible for - of the legitim. Sometimes the definition of disinheritance is formulated from the negative side and it is indicated what disinheritance is not. It is emphasized, for example, that statutory terminology defines that disinheritance is not the deprivation of the successors of their participation in the inheritance estate by appointing other persons to the inheritance estate or by drawing up a negative will.²³ This view derives from Art. 1008 of the Civil Code. The statutory definition indicates that a given concept should be understood against a specific legislation.

The above description shows that Polish legislation has adopted a *sensu stricto* model of disinheritance but does not indicate that the deprivation of the right to the legitim is just one type of disinheritance, thus limiting the use of the term "disinheritance" for other cases of depriving the successors of all the benefits of an inheritance estate. Thus, disinheritance in Polish law is not understood as the deprivation of all the benefits of an inheritance estate²⁴ but only as the deprivation of the legitim. In this way, the Polish construction of disinheritance is different from, Dutch, French and Ukrainian legislations, which do not provide for such institutions as disinheritance with the meaning adopted by Polish law²⁵. It is similar to the solutions found in Germany, Austria or Switzerland where disinheritance has been given a similar meaning²⁶. For testators whose national law is Dutch or French law, and their habitual residence is in Poland, this is important because the range of available dispositions in the event of death after 17 August 2015 includes a new instrument - disinheritance²⁷.

²² It is noticed, *inter alia*, by B. Kordasiewicz, 'n 18 supra'.

²³ A. Szpunar, 'Uwagi o prawie do zachowku', (2002) 12 *Rejent* 6, 25-26. Thus, the author admits a wider concept of disinheritance, which, however, is not reflected in the normative content of Polish law.

²⁴ Cf. W. Zimmermann, 'n 9 supra'.

²⁵ Cf, for example, W. Breemhaar, 'Familiäre Bindung und Testierfreiheit in neuen niederländischen Erbrecht', in D. Henrich, D. Schwab (eds), *Familienerbrecht und Testierfreiheit im europäischen Vergleich*, (Gieseking, 2001), 147 et seq.

²⁶ Cf M. Załucki, 'n 12 supra'.

²⁷ See also A. Bonomi, 'Testamentary Freedom or Forced Heirship? Balancing Party

It should be noted here that if Polish law turns out to be the applicable law to succession, it provides for the legitim as a special right of persons close to the testator. They are entitled to it when the testator did not foresee any benefits from the inheritance estate for them. Among various models which are admissible in this respect and are used worldwide²⁸ (the most popular being the reserve, the maintenance claims system or the legitim), the Polish legislator decided to keep only the legitim. According to Art. 991 § 1 of the Civil Code, a descendant, a spouse and parents of the deceased, who would be entitled to the statutory succession (the entitled), are entitled if they are permanently unable to work or if the entitled descendant is a minor²⁹. They take two-thirds of the value of their shares in the inheritance estate in the case of statutory succession, and in other cases, a half of such shares (legitim). According to Art. 991 § 2 of the Civil Code, if the eligible has not received the legitim due to him/her either in the form of a donation by the testator, or in the form of an appointment to the inheritance, or in the form of a bequest, he/she is entitled to a claim for payment of a sum of money needed to cover or to supplement the legitim. The legitim is not dependent on the fulfilment of any other conditions. In a suit for legitim, the only relevant factors are whether a given person belongs to the eligible group and whether he/she received his/her due benefit from the estate - under Art. 991 of the Civil Code. Therefore, it constitutes a certain restriction of freedom to dispose of the testator's estate in the event of death. To deprive the eligible person of the legitim, the testator must disinherit him/her, and as described above, disinheriting an entitled is permitted only where the statutory requirements are fulfilled. One should keep this in mind, especially since various European legal systems are not uniform in this respect. For example: Dutch law provides for legitim, but only for the descendants of the deceased (Art. 4:63 Par. 2 of the Dutch Civil Code)³⁰; French law provides for a system of the inheritance estate reserve but without the deprivation of the eligible persons of their rights by the testator's intention³¹; and German law, which is based on the legitim and provides for disinheritance, contains a completely different list of conditions for disinheritance than Polish law (§

Autonomy and the Protection of Family Members' in M. Anderson, E. Arroyo I Amayueelas, *The Law of Succession: Testamentary Freedom*, (Europa Law Publishing, 2011), 31.

28 A. Verbeke, Y.-H. Leleu, 'Harmonization of the Law of Succession in Europe' in A. Hartkamp, M. Hesselink, E. Hondius, C. Joustra, E. du Perron, M. Veldman, *Towards a European Civil Code*, (Kluwer Law International, 2004), 335 et seq.

29 P. Księżak, *Zachowek w polskim prawie spadkowym*, (Lexis Nexis, 2010), 98 et seq.

30 T. J. Mellema-Kranenburg, in J. H. Nieuwenhus, C.J.J.M. Stolker, W.L. Valk (eds), *Erfrecht. Tekst & Commentaar* (Kluwer, 2002), 94.

31 F. Lipworth, J.-P. Le Bouffo, J. Le Boufo, in L. Garb, J. Wood (eds), *International Succession* (Oxford University Press, 2015), 280-282.

2333 of the German Civil Code)³². Not in every case, the testator's last will causes the legal effect intended by him/her. For example, if a German testator draws up a will in which he/she invokes the condition for disinheritance occurring in German law but which is not a feature of Polish law, when Polish law is the law applicable to the succession, the disposition of disinheritance will not cause any legal effect. Furthermore, upon drawing up a will, the testator whose national law differs from the Polish law on the legitim, does not usually take into account the rights of persons close to him/her, provided for in the system in the event of his/her death. This may lead to undesirable solutions and may cause his/her will not to be implemented. This will happen if according to the intention of a Swiss testator, the benefit is in the form of the inheritance estate reserve for his registered partner pursuant to Art. 470 of the Swiss Civil Code (he/she will dispose of the free part of his/her estate on behalf of other persons³³) or when a Dutch testator decides that all his/her estate should go to his/her descendants, recognizing that the surviving spouse is not entitled to the estate benefits. Both in the first and in the second case, when the law applicable to the inheritance is Polish law, the testator's intention will not be implemented. In the first case, because Polish law does not know the institution of civil partnerships, the legitim that will replace the reserve, will not cover the registered partner. In the second case, in addition to the descendants, the spouse is also entitled to the benefit from the inheritance estate (in the form of the legitim; $\frac{1}{2}$ of what would go to him/her in the case of statutory succession). Surely, this will cause major difficulties in practice, and in many cases, it will lead to surprising solutions for the testator and successors.

3. The content of the declaration of disinheritance

The content of the testator's declaration of disinheritance expressed in his/her will is also important for the Polish legislator. In practice, the exclusion from inheritance is relatively common when the testator draws up a will. However, in general, the effect is thendepripping the successor of statutory inheritance or the participation in it, but not disinheritance. The legitim will still be due. To achieve such an effect - i.e. to deprive the successor of the inheritance estate or the participation in it, it is generally sufficient just to draw up a will. However, to disinherit a person, the disposition of disinheritance must contain the required content, and in particular, disclose adequately the intention of the testator related to the

32 A. Dutta, 'The Legal Protection of the Surviving Spouse – German Law in Comparative Perspective', in T. Frantzen (ed.), *Inheritance Law – Challenges and Reform*, (Berliner Wissenschafts Verlag, 2013), 41-44.

33 Cf P. Weimar, *Berner Kommentar. Das Erbrecht*, (Stämpfli Verlag, 2009), 161-164.

deprivation of the legitim in relation to that person, determine precisely the disinherited person and indicate the reason for disinheritance.

There is no clear answer to the question how to formulate a testator's declaration whose effect is to deprive a person of the legitim. The testator's intention must be expressed in such a way that the intention of disinheritance is clear, and beyond any doubt. So here, the testator may use various types of wording, including "I disinherit", "I deprive of the legitim" or "I deprive of all the benefits of inheritance estate".³⁴

Under Polish law, there is flexibility in the manner in which the disinheriting intention is expressed. The testator's intention, however, must be clear in the declaration. When explaining the testator's declaration, the rule of interpretation expressed in Art. 945 § 1 of the Civil Code is applicable to implement the testator's intention as fully as possible. The testator's declaration of intention should be explained according to the circumstances in which it has been given, the rules of social conduct and established customs (Art. 65 § 1 of the Civil Code).³⁵ Delimiting the situation in which the testator's intention is not clear can be difficult in practice.

There is no doubt that the content of the disinheritance declaration, besides the explicit articulation of the disinheritance intention, should duly identify the successor who is to be disinherited and include the testator's motives. The determination of this person is very important because the testator must express his/her intention clearly, as disinheritance cannot be presumed. In turn, the requirement to specify the testator's motives is clear under Art. 1009 of the Civil Code. A person who draws up a will, which will then be the subject of analysis under Polish law, should have this in mind.

4. Indication of the disinherited person

An important element of the declaration of disinheritance - as a Polish institution - is to identify the disinherited person. This should be done in a manner analogous to identifying the person appointed to inheritance. Such a person must be determined by the testator in such a way that his/her identity does not raise any doubts. Thus, the most desirable way is to state the name and surname of the person eligible for the legitim, and possibly other data. It is acceptable and sufficient, however, to determine the disinherited person in such a way that it will identify him/her in a way that does not raise any doubts. Expressions such as "my eldest son" or "my wife" are meant here. In turn, the lack of identification of such a person through an incomplete or inaccurate term can make the disinheritance disposition

³⁴ S. Herzog, *Die Pflichtteilsentziehung - ein vernachlässigtes Institut*, (Gieseking, 2003), 10 et seq.

³⁵ For more see Z. Radwański, M. Zieliński, in M. Safjan (ed.), *System prawa prywatnego. Prawo cywilne – część ogólna*, (C.H. Beck, 2007), 417 et seq.

ineffective.³⁶ Theoretically, it appears to be acceptable, however, to determine the person in judicial proceedings either by the interpretation of the will, or by proving it by other means and, therefore, in the same way as it could possibly be while determining the circle of persons appointed to testamentary inheritance.³⁷

The admissibility of identifying the person appointed to the inheritance estate through the interpretation of the will is generally accepted.³⁸ The disinherited person can also be determined in the same way. To do this, one can follow the directives indicated e.g. by the Supreme Court, which in one of the decisions pointed out, *inter alia*, that it is permissible to define a person by way of the will interpretation, but only when the testament contains clear criteria for determining the testator's intention in an unambiguous way. According to the Court, there is no way to exclude the possibility to determine the heir by the rules of the will interpretation, provided for by Art. 948 of the Civil Code. In particular, under Art. 948 § 1 of the Civil Code, an order aimed at establishing the real intention of the testator means the departure from the rule of interpreting intention declarations with regard to objective factors in favour of subjective elements. When determining the real intention of the testator, any circumstances that may be helpful should also be taken into account, e.g. the testator's declaration in connection with the contents of the will, but not included in it (external circumstances). The principle of benevolent interpretation also applies, expressed by Art. 948 § 2 of the Civil Code. The interpretation of the will, however, is always intended only to remove the ambiguities contained in the testator's last will, and may not lead to complete or modify the content of the will.³⁹ This rule also applies where interpretation of the will shows that the disinherited person is intended. Determination in this way is possible, but only if the testament contains clear indications that allow the testator's intentions to be determined in a manner that does not raise any reasonable doubt. Besides, as indicated by the doctrine, such testamentary provisions are most common in practice and it is sufficient that a person is described in a way that allows identifying him/her.⁴⁰

³⁶ E. Bystrzyńska-Fornal, 'Oznaczenie (określenie) osoby spadkobiercy w testamencie', (2004) *Przegląd Sądowy* 2, 55.

³⁷ E. Skowrońska-Bocian, *Testament w prawie polskim*, (Lexis Nexis, 2004), 135.

³⁸ Cf, for example, B. Rakoczy, 'Glosa do postanowienia Sądu Najwyższego z dnia 13.06.2001 r., II CKN 543/00' (2002) *Przegląd Sądowy* 10, 123; M. Niedośpał, 'Powołanie spadkobiercy', (1986) *Nowe Prawo* 4-5, 58.

³⁹ Judgement of the Supreme Court of 13 June 2001, II CKN 543/00, 2002 *Orzecznictwo Sądu Najwyższego Izba Cywilna* 1, 14.

⁴⁰ M. Niedośpał, *Testament w polskim prawie cywilnym. Zagadnienia ogólne*, (Wydawnictwo Uniwersytetu Jagiellońskiego, 1991), 120.

It is also important that as the testator may not authorize any third party to indicate the heir, he/she cannot authorize anyone to declare disinheritance on his/her behalf. This is due to a strictly personal nature of the will and the declaration of disinheritance. Hence, any dispositions of the testator in this regard must be a manifestation of his/her intention, expressed in person and not by a third party. The possibility to leave the choice in this regard to a third party would be a glaring contradiction with the principle of the personal nature of the legal act of drawing up a will.⁴¹ It is also one of the circumstances that must be taken into account, especially since some views expressed in comparison with other legal systems may often differ in this regard.

5. Indication of the reason

The indication of the reason for the disinheritance is also a necessary element of the disinheritance disposition in Polish law. According to Art. 1008 of the Civil Code, disinheritance can occur only in the will and only on the grounds specified in it. The testator wishing to disinherit a successor must therefore draw up a will, properly identify the disinherited person, declare that he/she wants to deprive this person of the right to the legitim and give the reason why. Pursuant to Art. 1009 of the Civil Code, the reason for disinheritance should arise from the contents of the will.

The provision of Art. 1009 of the Civil Code means that it is sufficient that the contents of the will allow determining the reason for disinheritance. Therefore, it is not necessary to state precisely one of the circumstances indicated by the legislator in Art. 1008 of the Civil Code. It is enough if the testator describes the facts, namely the specific inappropriate behaviour of the successor. From this it will be possible to determine whether the behaviour is in the statutory list of reasons and accordingly whether the declaration of disinheritance is effective. Art. 1009 of the Civil Code states that the legislator does not strictly require that the testator should indicate the reason for disinheritance directly, although that is most desirable. The duty does not mean a precise definition and justification of the reason for disinheritance in the will. It is to be expressed in a way that allows the reason to be determined and reflects the settlor's real intention.

The necessity to identify the reason for disinheritance arises due to some social doubt in Polish law. It is probably due to the lack of public knowledge about the basic principles of the law of succession, including the grounds for disinheritance. It should be emphasized here that any possible doubts regarding the contents of a testamentary disposition including

⁴¹ E. Skowrońska, 'Z problematyki powołania spadkobiercy w testamencie' (1993) *Palestra* 1-2, 6.

disinheritance (with its reason) should be removed by the way of interpreting the will (Art. 948 of the Civil Code). This interpretation, however, serves only to establish the unambiguous wording of the testator's declaration of intention included in the will. Within this interpretation, the content of the will cannot be changed, modified or complemented. The application of Art. 948 of the Civil Code cannot therefore lead to the determination (by way of evidentiary proceedings) of the reason for disinheritance of the persons eligible for the legitim that is unexpressed in the contents of the will. It would be equal to complementing the contents of the will with provisions that were not included in it. Under current law in Poland, indicating the reason for disinheritance is therefore necessary to ensure the validity and effectiveness of the testamentary disposition of disinheritance. This aims, *inter alia*, at avoiding possible disputes after the testator's death between the heirs and the eligible for the legitim.

One may reflect on the legitimacy of the legal status in which the indication of the reason for disinheritance belonging to a closed statutory list is still desirable. In the reference literature, there is no discussion on the subject. It is only indicated that recognizing disinheritance which is not underpinned by a concrete reason as effective could lead to the deprivation of the right to the legitim for trivial reasons and not always in line with the testator's intention. This is an argument for the existing legal status. It should be indicated that the current rules of disinheritance are based on the dominant importance of the testator's intention, with the constraints of the statutory law. They are a kind of compromise between the interests of persons close to the testator and those of his heirs and those gifted by him during his lifetime. Therefore, in light of the current position of the doctrine, it does not seem justified to modify these rules, only to protect persons who do not know law. On the other hand, the existing limitations for the testator, in the form of a closed list of the reasons for disinheritance can lead to a situation in which the breaking of family relations by the heir with the testator will not justify the heir's disinheritance. This may raise some doubts and lead to the adoption of the idea of the need to change the existing legal status. Theoretically, it is possible to adopt a concept of disinheritance that is not subject to a specific condition referred to in the law, but left only to the intention and recognition of the testator. As indicated by social needs, the intention of the testator, who after all is generally not a lawyer, should be respected. The lack of legal knowledge is not the right argument for not considering the testator's intention. If he/she decides to disinherit a person, he/she must have a justified subjective reason. Then there is just a basic problem whether the motives of disinheritance should be examined through the prism of subjective or objective perception. In the latter case, it is possible to determine an appropriate list of reasons, which, according to the

legislator attempting to reflect the will of the public, are wicked and justify disinheritance. This direction was chosen by the Polish legislator, who catalogued the reasons for disinheritance (Art. 1008 of the Civil Code), deciding to leave the decision to the testator whether to use disinheritance. The legislator, however, also identified the reasons for unworthiness of inheritance (Art. 928 of the Civil Code). In principle, these reasons are applicable to any situation involving wicked behaviour in the context of disinheritance regardless of the testator's intention. The objective protection of inheritance from inappropriate behaviour on the part of potential heirs exists independently of the testator's intention and the use of disinheritance. Therefore, the question arises whether disinheritance can be shaped as an institution reflecting only the testator's interests. It seems that there are no obstacles to the adoption of such a construction, because the primary function of disinheritance is the protection of the testator's subjective interests. It is one thing to allow unrestricted disinheritance, and another to implement a judicial review of such dispositions aimed at protecting the heirs, which in the current state of the law is based primarily on Art. 1009 in conjunction with Art. 1008 of the Civil Code. Hence, it appears that the formation of disinheritance as an institution reflecting only the testator's subjective perception would be possible, if it was still possible to control such a disposition by the State, and if it was not in contradiction to other rules resulting from a given legal system. Such a solution, however, lies in the future⁴².

For disinheritance to be effective, the law applicable in Poland therefore requires that the testator's will should give a particular and real reason that, in his opinion, justifies the disposition of disinheritance. This reason must refer to one of the three types of behaviour specified by the Civil Code, i.e. 1) a persistent conduct contrary to the testator's intention and in a manner contrary to the principles of social coexistence; 2) an intentional commitment of a crime against the testator or a person close to him/her threatening their life, health or freedom or a gross insult to his/her dignity; 3) a persistent failure to perform family obligations with regard to the testator. Moreover, the cause must exist at the latest at the time of the disinheritance disposition. Otherwise, potential disinheritance should be permitted, the construction of which is, however, incompatible with Art. 1008 in conjunction with Art. 1009 of the Civil Code. Disinheritance is in fact a kind of a repression act against the heir for his/her offences. It does not apply to hypothetical events, but only to those that actually took place.

42 Cf M. Załucki, 'Przyszłość zachowku w prawie polskim', (2012) 21 *Kwartalnik Prawa Prywatnego* 2, 556-562.

This type of solution can be - from the point of view of foreign legal systems - often surprising. Firstly, if the testator's national law does not provide for the institution of disinheritance and his/her intention would be a disposition in the event of death excluding the testator's descendants, spouse and parents, if Polish law is the law applicable to the succession after him/her, his/her will shall not have the planned effect. Secondly, when the testator's national law provides for disinheritance, if Polish law is applicable to the succession, disinheritance will have the desired effect only if his/her will specifies the reason for disinheritance and will be in the catalogue of reasons given in the text of Art. 1008 of the Civil Code. Otherwise, the disinherited person will not be effectively deprived of all the benefits of the inheritance estate. Difficulties may arise, e.g. if the testator's national law knows the so-called disinheritance in good faith (*bona fide*) as e.g. Swiss legislation (cf. Art. 480 of the Swiss Civil Code⁴³) or partial disinheritance (e.g. Austrian legislation, the doctrine and judicial decisions of which do not deny in principle the admissibility of such an institution⁴⁴). If a Swiss testator disinherits in good faith, then, if Polish law is applicable to his/her inheritance case, the testator's intention will not be implemented. The same happens when an Austrian testator provides for a partial disinheritance, the legal consequences of which are not clear in Poland. According to some representatives of the Polish doctrine, partial disinheritance may in fact be equated in its consequences with forgiveness, and thus would deprive the disinheritance carried out by the Austrian testator of its legal force.

6. Excluding the impact of Polish law application

In light of this, as one could think, the practical use of disinheritance does not always lead to the desired effects. In extreme cases, this may mean achieving effects that are not socially acceptable. In this context, there is a question of the refusing mechanism to apply the applicable law specified by the provisions of the Regulation. This kind of solution, known as the public policy clause, in fact appears usually in private international law. Art. 35 of the Regulation indicates that it is possible to exclude the application of a provision of law of the country indicated by the Regulation by the court dealing with the inheritance case⁴⁵. This may be particularly the case if such

43 P. Tuor, B. Schnyder, J. Schmid, A. Jungo, *ZGB. Das Schweizerische Zivilgesetzbuch*, (Schulthess Verlag, 2015), 843 et seq.; R. Fankhauser, in D. Abt, T. Weiberl (eds), *Erbrecht*, (Helbing Lichtenhahn Verlag, 2015), 341-346.

44 Cf M. Cottier, 'Soll das gut noch fließen wie das Blut? Familienbilder in aktuellen Diskussionen zur Reform des Erbrechts', in P. Perrig-Chiello, M. Dubasch (eds) *Brüchiger Generationenkitt?*, (vdf Hochschulverlag, 2012), 162.

45 A. Wysocka-Bar, in M. Załucki (ed.) *Unijne Rozporządzenie spadkowe Nr 650/2012. Komentarz*, (C.H. Beck, 2015), 216-224.

application is manifestly incompatible with public order (*ordre public*) of a Member State dealing with the inheritance case.

Specified in that provision criterion for the application of the public policy clause is therefore legal order (*ordre public*) in force at the seat of the adjudicating court. This includes some basic values stemming from the applicable legal, political and social system. It means the current public order, which reflects contemporary views on fundamental values in force in the country. Basic values are only those for which there is no doubt that they have a fundamental importance for the life of the country. If, therefore, the lack of effects of disinheritance based on a different legal system in Poland produces some controversy due to the conflict with public order, or if disinheritance is to be implemented, which also would raise some doubts, the provision of Art. 35 could become grounds for refusing the application of Polish law by the body deciding on the inheritance case. The application of this solution, however, should be treated with caution; it cannot serve to give preference to national law.

7. Conclusion

Disinheritance - in the light of the provisions of the EU Regulation on succession - is subject to the law applicable to the inheritance case indicated under the provisions of the Regulation (Art. 23 Par. 2 point d). As a rule, it is the law of the habitual residence (Art. 21 Par. 1) or the law of the State of the testator's nationality (Art. 22 Par. 2). In a situation where the legal system is designated as the system of the applicable law, the regulations of that State will be crucial for assessing the effectiveness of the act of disinheritance. The differentiation of the institution of disinheritance between countries in practice may give rise to some doubts that - as it may be assumed- will be difficult to remove. Therefore, the knowledge of the legal nature of each institution of law on succession occurring in their various regulations seems necessary. The road to the single law of succession in the European Union is in fact still far away. The only possibility that appears in the background of the adverse effects of the application of foreign law in the context of disinheritance - as it may be assumed - is the mode indicated in the text of Art. 35 of the Regulation. The public order clause indicated there, however, is the tool that should be reached for only in exceptional circumstances. Therefore, potential disputes on this matter will have to be resolved in the judicial decisions of the Court of Justice. Until then, it is necessary that the testator should make conscious choices and by using the mechanisms provided for in the provisions of the Regulation, should make his/her inheritance case subject to that legislation which he/she knows and which will reflect his/her intention as accurately as possible.

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Entrenching Sustainable Democratic Participation of Women in Politics: The Option of the All Progressives Congress Gubernatorial Primary in Ondo State, Nigeria

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Doi: 10.19044/elp.v4no2a3 [URL:http://dx.doi.org/10.19044/elp.v4no2a3](http://dx.doi.org/10.19044/elp.v4no2a3)

Abstract

The democratic participation of women in politics and decision-making is largely dismal especially, in party representation to elective positions despite, their population and participation in Franchise .Although, there had been deliberate attempt to empower women to seek elective positions through non- payment of party nomination forms as a concession to boost their participation especially, by the All Progressives Congress Party yet, patriarchy, gender bias and stereotype; religion, ethnicity, the forms of education received by the Nigerian society through colonization has not translated into consciousness raising towards reflection and action for a deliberate change of the status quo which the APC intend to foster. This paper therefore, utilizes Freire's theoretical approach of consciousness raising of the individual in adult learning as a liberating factor to stem the societal anomaly that tend to obstruct the development of the nation. It proposes Lifelong learning as a continuum and Freire's philosophy among the people to articulate and promote competencies to adapt to a knowledge based society, which builds on cultural values but devoid of factors of inequality towards entrenching sustainable democratic participation of women in politics.

Keywords: Democratic women's participation, politics, consciousness raising, lifelong learning and the All Progressives Congress.

1. Introduction

Women remain a small proportion that enjoy the benefits of democracy in real political participation, representation and decision – making. Democracy is about the people irrespective of sex in the real world

of an egalitarian society. Among other things, the quality of democracy is ascertained by the extent of citizen participation in the political process and the participation of different social groups in decision – making bodies including political parties, elections and parliaments.

The world's population statistics put women's population at fifty percent. Fifty – one percent of women are voters in election in Nigeria Ofong (2000) yet women's numerical strength is a paradox of their representation and decision – making in all sphere of life. The level of literacy, the type of literacy received, fund and a non-formal patriarchal system of a male dominated structure, shaped by an ideological stereotype of women's role of domestic ingenuity continue to mar the level of women's political participation and impact in Nigeria and most developing economies. Majorly, women are primarily engaged for mobilising votes whereas the decision – making of picking political representatives are largely made by men.

Nigeria is a federation of thirty – six states and the Federal Capital territory, Abuja. These states are administered by governors. There are two political parties in the fore front in Nigeria. They are the present federal ruling party- the All Progressives Congress (APC) and the opposition, Peoples Democratic Party (PDP). In Ondo State, Governor Olusegun Mimiko of the PDP's tenure lapsed in February, 2017. This called for a gubernatorial election in the State and prior to this the conduct of primary election by each contesting party. Each party designed the modality with which it conducted its primary election to select a party candidate for the general election.

Ondo State has two hundred and three political wards with twelve delegates each from the APC. Of these delegates, only four hundred and eight are females while about two thousand seven hundred and fifty-four delegates in all participated in the voting process that was witnessed by the Independent National Electoral Commission (INEC) where Oluwarotimi Odunayo Akeredolu(SAN) a former President of the Nigerian Bar Association emerged as the party's representative in the November, 2016 gubernatorial election in Ondo State.

Nigerians have been exercising franchise since 1999, but gender representation especially in choosing party representatives has been significantly low. The situation is still far from the act of democracy. Historically, the Nigerian society is not complete without the mention of great feats made by some women even at the cost of their lives and family members. Gender stereotype is not only influenced by men but also by fellow women that contributed to an insignificant participation and representation of women in politics and decision – making also, resulting in minimal impact on their part. Democratic system of governance rejects

gender segregation in all forms of political participation. For instance, Gberevbie and Oviasogie (2013) assert that a unique feature of democracy is equality of participation in decision-making of issues affecting all segments of the society. Also, scholars like Fox (2007) and Onyeghalaji (2008) affirm that the act of excluding anybody from the political process is a negation of true values of a democratic society.

Since 1999 under representation, thuggery, violence, god fatherism, monetization of politics, favouritism and a weak society have characterised the Nigerian political scene (Alese, 2013). The election that brought President Muhammadu Buhari's administration into power in 2015 however, was acclaimed better than what it used to be especially, because of the use of card readers to identify voters.

President Buhari had the mandate of changing the status quo by promoting the progressive ideology in providing for the needs of the masses by creating job opportunities for the people, reducing poverty, eradicating corruption, maintaining the rule of law, building a virile civil society, tackling insurgency among others which is believed to be the bane of failures of past administration and the low level of economic growth/ economic repression in which Nigeria finds itself now. At all level of governance, the people expect transparency, including a change in behaviour of the leaders and the people to address misappropriation of public funds and inequality in the distribution of resources and eradication of gender stereotype and the like to provide for a level playing ground and build a virile civil society.

The situation has not changed much with the clamour for change by the APC and Buhari's administration. For instance, Buhari's cabinet has only six female Ministers, seven female Senators and fourteen members of House of Representatives (Premium Times, 2015). Does this translate to thirty-five percent representation of the Beijing Conference and 1999 constitution that domesticated women's representation in public square? However, he is busy fighting corruption and recovering looted funds but yet to give more representation to women in his cabinet. It is commendable here however, that the APC as a party allowed all interested women who want to vie for the position of governor to pick their nomination form free of charge whereas, their male colleagues purchased the same nomination and expression of interest forms for five million and five hundred thousand naira respectively. Their male colleagues also contributed two million naira as party development fee to the State Secretariat of the party.

Despite this high fee and concession, twenty-three males and only one female aspirant emerged. This is an indication of great apathy on the part of women. While commending the concession given to women, one would have expected that the nomination form and similar fees will not be this exorbitant. President Buhari lamented that the expression of interest fee of

five million and nomination form fee of twenty million naira for the presidential ticket of the APC was exorbitant when he contested. In fact, oral information revealed that he was paid for; because of his credibility. The provision of a level playing ground demands moderation as non-moderation might make people holding public offices embezzle public funds. However, women are expected to participate more in political offices.

In order to entrench sustainable democratic participation of all the citizenry which will infuse democratisation in people, education as a right of the citizen need to be given political will. Also, the right education for consciousness raising while building on indigenous moral values and ethics are salient components of education. Illiteracy, the level and the type of education of the people have a big role to play in the participation of the people and women in politics (Alese,2015a). It has also been discovered that majority of women are apathetic to politics, despite their high level of education. Paulo Freire's literacy method of Conscientization is quite adaptable at this juncture. Freire went beyond teaching the skills of reading and writing but that of critical thinking, consciousness raising, reflection and action.

Efforts have been directed at mass literacy of children, the adult and the early school leavers both by the government, national and international Non-Governmental organizations in the past but the fact remains that education need to be given beyond the tenets of schooling to avoid 'crisis' and include Lifelong learning for a knowledge based society. Lifelong learning is a continuum of learning throughout life that seeks to improve knowledge, skills and competence within a personal, civic, social, and/or employment related perspectives.

The functionality in lifelong learning could be coined with Freire's philosophy of education for reflection and positive action to raise the consciousness of the people towards removing passivity and fatalism for a valued society. This paper heightens the argument that the right to education that include consciousness raising elements of reflection and positive action of the citizenry will entrench sustainable democratic participation of women and the Nigerian people at large in politics towards a democratic and valued society.

2.0 The Theory of Conscientization and Dialogue

Freire propounded the theory of conscientization and dialogue through his experience as a Brazilian who had financial challenge during the great depression of his country. His earlier experience and that of public service after his University education brought him in contact with the poor and dispossessed which later developed into his dialogical method for adult education (<http://digital.lib.msu.edu> n.d).

Freire brought literacy programmes to the peasants in Brazil by presenting participation in the political process through reading and writing. He awakened the hope of the poor and they started having a say in the day – to – day decisions that affected their lives. He was imprisoned for making progressive moves which was considered outrageously radical and he began his first major education work – Education as the Practice of Freedom in prison (<http://digital.lib.msu.edu> n.d)

Freire came in contact with a new culture at the United States and found that repression and exclusion of the powerless from economic and political life was not limited to cultures of dependence. He wrote the Pedagogy of the Oppressed as he opined that education should be the path to permanent liberation which is of two stages. The first is that, where people become aware (conscientized) of their oppression and transform that state. The second, a permanent process of liberating cultural action. That is, positive reflection and creative action leads to transformation.

Freire's method of conscientization and dialogue involves teaching adults how to read and write in relation to the awakening of their consciousness about their social reality (<http://digital.lib.msu.edu> n.d). It also rests on the equality of all people, the right to knowledge and culture to criticise their situations and act, having faith in people, whether literate or illiterate and engaging in critical dialogue. Freire's theory relies on active dialogue and critical pedagogy rather than being passive (Freire, 1970).

Freire was criticised by those who are averse to revolution as being demagogic and utopian. He was also accused of idealism in his opinion of popular consciousness and failure to take into account the radical differences between forms of oppression and their complex and contradictory instantiation in subjects (<http://digital.lib.msu.edu> n.d). Despite the criticism, Freire's theory remain indispensable as it sees oppression and repression as irrational and an act of inhuman social order which could be redressed /changed by giving the right knowledge to the people through progressive and liberatory education by educationists who believe in development and stand against real oppression rather than formal rights that are written but never practiced.

2.1 Democracy and Conscientization

The concept and understanding of democracy is mostly pinned on qualities, procedures and institutions. For instance, Britannica (2013) opines that democracy reflects a form of government in which supreme power is vested in the people and exercised by them directly and indirectly through a system of representation usually involving periodic election. Also, Moghadam (2008) avers that in a liberal democracy, there is the need for a high degree of political legitimacy, as is an independent judiciary and a

constitution that clearly sets out the relationship between state and society, and citizen's rights and obligations. Corroborating this, Diop (2006) in Ubani (2013) opined that: *A democratic developed state is considered as an 'ideal' form of socio – economic and political governance underpinned by the principle of democracy (participation, equality, protection of human rights etc) and whose objectives are articulated around the development of the country as well as an improvement in the well being of the population.*

Freire's Conscientization teaches consciousness arousal, a positive reflection of the state of issues and creative action towards transformation. The link between democracy and conscientization is the ability of value assumption of equality of all people and the uninhibited right to challenge their situation and act. It draws on the strength of all people to engage in critical dialogue. In this sense, a healthy democratic state is that where the citizens are not afflicted by disease, illiteracy, ignorance, poverty, political apathy and violence.

It is expected that citizens should not be passive to decisions affecting them and their society. In essence, all citizens irrespective of sex should have the critical consciousness to participate in political issues in their society. This in itself is a sense of being liberated. All aspirants believe in changing the present situation- the state of critical consciousness. APC had enjoyed an improved image and goodwill among Ondo people. This is arguably attributable to the failure of the state government to meet the yearnings of the people through unpaid salaries, laying off of workers without genuine reasons, perceived maltreatment of citizens, increased taxation and alleged insensitivity of the PDP sitting government to the sufferings of the people Oluwole (2016) of which women too should be eager and aspire to change.

2.2 Culture, Religion, Ethnicity, Gender Stereotype and bias on Sustainable

Democratic Participation of Women in Politics

The hard stance that colonialism, culture, gender stereotype and bias, ethnicity and religion pose to the realisation of sustainable democratic participation of women in politics cannot be overemphasised. The pre-colonial era was largely traditional which places several demands on the woman. She is a mother, wife and an entrepreneur in her own capacity. Women were actively involved in community development although, these are complementary to the leading of their spouses. Decisions are made and roles were assigned to women in their capacity as it is believed that some functions are the reserve of men/women.

Colonization especially in the form of religion and education also had its great effect on the established rule of governance on the Nigerian society.

The two religion- Christianity and Islam preached the subjugation of women. For instance, The Bible in 1 Timothy 2: 11 and 12 say:

Let the woman learn in silence with all subjection

v.11

But I suffer not a woman to teach, nor to usurp authority over the man but to be in silence.

v.12

However, there seems to be a contraction in Proverbs 3: 10 – 12

Who can find a precious woman? For her price is far above rubies

v.10

The heart of her husband doth safety trust in her, so that he shall have no need of spoil

v.11

She will do him good and not evil all the days of her life

v.12

I am of the opinion that a virtuous woman who must be trusted by the husband must be knowledgeable, ready to take up roles and make decisions at any time. Must a woman who will do her husband good all the days of her life learn in silence and be subjugated?

The Quran emphasises knowledge.

Read ! in the name of your Lord who created, created man from clots

Of congealed blood. Read! Your Lord is the Most Bountiful One, who

Taught by the pen, taught man what he did not know.

Iqra 3 in Oladosu –

Uthman p.252

Prophet Mohamed (Peace Be Unto Him) in Isah (2013) said;

He who has a slave – girl and teaches her good manners and improve her education and then manumits and marries her, will get a double reward. P.249

Both Isah and Oladosu – Uthman (2013) affirmed that the Quran is in support of the education of women but a disconnect is evident between what Islam says and the operation within the muslim societies. The education of the “Girl child” and Women is paramount to the two faiths reviewed though to make them perform as good house wives. But majorly, males hide under the scripture to subjugate women and the tendency of excluding them in decision- making.

Nigerians are highly ethnical. Tribalistic tendencies remain the bane of recognition in the society. For instance, majorly the northerners believe they have strong hold on power and as such when Presidential candidates are to be selected, because of the population of the northerners, it tend to favour them. Similarly, there is always the notion among the Yorubas that any Yoruba picked is their Kinsman. The Igbo of Nigeria are not left out of the scene either.

2.3 Gender /Women, Democracy and Conscientization: The Nexus.

Gender is connected with the attributes and opportunities of being a male or female. It also connotes relationship between males and females. In all cultures, attributes, opportunities and relationships are constructed socially. These are context specific and could be changed. They are not synonymous to women. (Onuk, 2006). Whereas a woman is the biological sex mode of a person.

Globally, women have been under-represented in decision-making. However, without women’s participation in socio-economic and political institutions, nations are unable to develop healthy and sustainable democracies as such, development have continued to elude developing economies. Women have a stake in strong and sustainable democracies, but can be adversely affected by an institutionally weak democracy which is not based on principles of equality and the right of all citizens and a weak civil society. A more expanded understanding of democracy is highly instructive as it has as its correlates civil liberties, participation and inclusion. The recent UNDP’s report in Nigeria reiterated that gender inequality has hampered the nation’s development.

Freire’s conscientization is highly political. It is embedded in democracy. The right of being able to read and write for permanent liberation from an unclear and mystifying world. He believes that social change should come from the masses and not from isolated individuals

(Freire, 1974). Democracy that is devoid of inclusiveness, equality and which does not allow freedom of participation is weak.

2.4 The All Progressives Congress (APC)

The All Progressives Congress is a political party in Nigeria. The formation of the party from Action Congress of Nigeria was completed in year 2013 with Senator Asiwaju Bola Ahmed Tinubu largely contributing to its success (Ibrahim, 2016). It is a conglomeration of political parties –The Action Congress of Nigeria, the Congress of Progressive Change [CPC], the All Nigeria Peoples Party [ANPP], and a faction of the All Progressives Grand Alliance [APGA].

The Conglomeration came into being out of the need to put an end to sixteen years continuous rule of the Peoples Democratic Party [PDP]. The APC was tagged the progressives party because of its manifesto which seems to have addressed the multi-faceted problem of under development and corruption in Nigeria. The APC is currently the ruling party in Nigeria. It has the President- Muhammadu Buhari, majority at the National Assembly and seventeen State governors to its credit. In addition to the National Secretariat at Blantyre street Abuja, the party has a Secretariat each in all the thirty-six states of the federation and the federal capital territory, Abuja.

During the formation of the party, it was agreed that the presidential slot should go to northern Nigeria. On that note, President Muhammadu Buhari emerged. The Vice President emerged from the South; the Senate President was zoned to the middle belt. The Chairmanship of the party was zoned to the South-South which made Chief John Odigie- Oyegun to emerge. The party was structured in such a way that each of the geopolitical zones produced a Vice Chairman which was further divided into North and South and each of these zones further produced Deputy Chairman.

2.5 The All Progressives Congress Gubernatorial Primary

The primary election for the APC gubernatorial flag bearer was earlier scheduled to hold in August 27th, 2016 in respect of the gubernatorial election of Ondo State which was scheduled for November 26, 2016 but was postponed till September 3rd, 2016. Altogether, twenty- four aspirants including a female contested for the primary election. At a meeting of the party held on the 20th of August, 2016 at the national party headquarters Abuja, the aspirants were assured of a level playing ground during the exercise although, it was earlier rumoured that one of the aspirants was endorsed by the national leader of the party- Asiwaju Bola Ahmed Tinubu upon which the followers of three of the aspirants protested at the State Secretariat Akure and locked up the offices. However, at the Abuja meeting, the aspirants involved were compelled to apologise to the party and

leadership of the party. Below is the result of the primary election and how the candidates fair.

S/N	Name of Aspirants	Sex	Votes in favour of each Aspirant
1	Abayomi Tunji	M	5
2	Abraham Olusegun	M	635 xx Petitioner
3	Adeyemi Foluso Mayowa	M	13
4	Akeredolu Rotimi	M	669 x Winner
5	Akinola Adeyinka	M	1
6	Akinyosola Odunayo	M	1
7	Akinyelure Patrick	M	3
8	Alasoadura Omotayo	M	206
9	Anifowose Jumoke	F	1
10	Niyi Adegbonmire	M	8
11	Afolabi Jamiu Ekungba	M	44
12	Oyewumi Akinboye Taiwo	M	7
13	Olusola Oke	M	576 xxx Petitioner later defected to AD
14	Awodeji Apata	M	2
15	Ayorinde Bode	M	67
16	Boroffice Robert Ajayi	M	471 xxx Petitioner
17	Moyosola Niran Oladunni	M	3
18	Oyewumi Gboye	M	1
19	Olabimtan Victor	M	18
20	Akintelure Paul	M	1
21	Akingbade Akinwale	M	3
22	Akinrinsola Odunayo	M	2
23	Bukola Adetula	M	8
24	Adegoroye Ademola	M	0
	TOTAL		2754

Source: APCOndoPrimary<http://il.wp.com/an24.net/wp-content/uploads/2016/09/APC-Ondo-...>

The table above is self explanatory, Oluwarotimi Akeredolu won the primary election with six hundred and sixty-nine votes, Olusegun Abraham came second with six hundred and thirty-five votes, Olusola Oke came third with five hundred and seventy-six votes while Senator Robert Ajayi Boroffice came forth with four hundred and seventy-one votes. The issue confirming a great vacuum in the education of women and the right education for all in this situation is the fact that, the only female contestant scored only one vote. Is it not ridiculous? It is expected that more women would have participated. Where we have four hundred and eight women delegates? This candidate had been empowered earlier by not paying the expression of interest and nomination fee. However, the primary election was controversial.

The crux of the matter in the APC primary was the allegation of being fraudulent and the national Chairman being corrupt. There were allegations that Mr Oluwarotimi Akeredolu connived with the electoral

committee to rig the primary election in his favour .This generated a lot of heat to the extent that three aspirants that came second, third and fourth addressed a press conference in Akure the state capital and petitioned the election Appeal Committee of the party. More so, on Friday, September 2nd, 2016, the aggrieved aspirants alleged that a new copy of compromised delegates list was made available to all the aspirants by the Primary Election Committee of APC around 10:30pm. On receipt of the purported new delegates list, they all wrote a protest letter, including Oluwarotimi Akeredolu (SAN) to the Primary Election Committee Chairman informing him of their rejection of the substituted delegates list but that the Committee went ahead with the list. The press conference reads thus:

...this media chat is to once again bring into the public domain the grim dirtiness that characterised the process which was not captured and shown to the people of Ondo State in the cinema beamed live on 3rd September, 2016. As change agents, we speak against the corruption in the process. As you are aware, we approached the Primary Election Appeal Committee provided for by the APC Primary Election Guidelines.

...as enumerated in our petitions, which we submitted to the Appeal Committee that was duly constituted by the National Executive Council (NEC) with the approval of the National Working Committee of APC and as contained in the Primary Election Guidelines of APC, the following are the planks upon which our appeals are based:

- *Fraudulent injection of three hundred and eighty three (383) names into the delegates list that was used to conduct the primary election.*
- *Issuance of delegate tags to non-delegates and allowing the non-delegates to vote in the primary election.*
- *On investigation, three hundred (300) delegate tags were indiscriminately issued to non-delegates; two designated buses were provided to convey known non-delegates to the voting centre and voted to give undue advantage to one of the aspirants. These, among others were discovered after the charade called credible election.*

Press Conference at the Nigeria Union of Journalist Centre Akure September 23rd, 2016.

It is amazing that the only female candidate did not show any sign of agitation. Does it mean that she is complacent about the situation or kept quite because she came from Owo, the home town of the winner?

Corroborating these, the party's Vice Chairman (South west) Chief Pius Akinyelure speaking on "How Ondo APC primary was rigged", said the party's National Chairman- Chief John Odigie- Oyegun, National Secretary Mai Mala Buni and the National Organising Secretary, Senator Osita Izunaso are behind the act and that it enjoyed the support of six National Working

Committee (NWC) members. The trio were said to have utilised the NWC meetings to unilaterally take decisions above their powers (Balogun, 2016). Izunaso was accused of single handedly removing, adding and substituting names on the initial list that was circulated to the party's aspirants which led to the second list altered in favour of Akeredolu (Balogun, 2016). It was affirmed that he enjoyed the support of the national chairman and Buni despite other NWC's member opposition because it conflicts with the party's rules.

Furthermore, Atiku and Olumilua, big wigs in the party recommended that APC should reconsider upholding Ondo State governorship primary election as the party's decision to jettison the Appeal's Committee recommendation that found reasonable ground for the conduct of a fresh election was a negation of good democratic practice (Atiku and Olumilua, 2016). It added that leadership should be guided by rules, fairness, equity, neutrality and democratic consensus.

Meanwhile, one of the petitioners Barrister Olusola Oke had defected to the Alliance for Democracy's party. He said, his defection was necessitated by an alleged injustice perpetrated by some leaders of the APC during the primary election. He alleged that, the National Chairman Oyegun caused his defection (Oke, 2016). It was alleged that the aggrieved aspirants were not invited for dialogue. Perhaps, if they had been invited for dialogue; so much dust would not have been raised. Despite all these heat, Mrs Hellen Endega; the Chairperson of the appeal committee did not react.

However, the APC national Chairman has explanation for rejecting the Appeal Committee's report and upholding the primary election's result in an interview that he granted in the Razor Express. He said he has strived to ensure a free, fair, transparent and credible process in all primary elections conducted under his watch of which the Ondo State gubernatorial election was not an exception. He reiterated that, nobody has the kind of money that could buy his conscience or make him do injury to an innocent man (Odigie – Oyegun, 2016).

The party's National Working Committee (NWC) rejected the Appeal Committee's report on Tuesday 20 September, 2016 and took the minutes and confirmation of same on Thursday 22,2016 in a four- point resolution on the grounds that the report was fundamentally and fatally flawed. It also contradicts itself when it reported that, in making such recommendations one is not unmindful of the fact that there may have been substantial compliance in the conduct of the exercise (Odigie- Oyegun, 2016). The four- point agenda reads:

- a. "The NWC faulted the failure of the Appeal Committee to invite the National Secretariat as the custodian, to authenticate or otherwise the source of the disputed delegates list".

- b. Also, the Appeal Committee did not invite the Chairman or members of the Ondo State Governorship Primary Election Committee to clarify issues relating to the allegation of manipulation of the accreditation process.
- c. The Appeal Committee rather relied totally on unsubstantiated evidence(s) in the petitions it received to recommend the nullification of the primary. This is against the principle of natural justice and fair hearing.
- d. “The NWC equally observed a serious contradiction in the Appeal Committee’s report in respect of the number of the accredited delegates. Whereas the Primary Election Committee’s report indicated that 2,774 delegates were accredited, the Appeal Committee’s report erroneously recorded it as those who voted in the election, thereby acting under the false impression that there was over-voting in the exercise. The actual total number of votes cast was 2,754, as clearly recorded in the Primary Election Committee’s report. P.4

He stressed that the issue of fresh primaries does not arise as NWC had had a careful and exhaustive deliberation on the Appeal Committee’s report chaired by a lady- Mrs Hellen Endega. More so, any fresh primary was time barred because of INEC’s ultimatum of Thursday 22nd September, 2016. One wonders why the chairperson of the Appeal Committee failed to react to all these. Could it be that she did not have enough training to function as the chairperson of such a Committee? The fact remains that she did not live up to expectation.

2.6 Adapting the Frierean Approach. Conducive or Hostile?

Freire’s Literacy method could be adapted to entrench sustainable democratic participation of women and the people at large in politics. Friere’s literacy method is liberating because of the factor of conscientization. Consciousness raising of the people and the attendant action towards changing the status quo generally holds the ethics of democratisation where norms and values of democracy are upheld beyond individual interests, selfishness and serves as a training ground for the participation of the people including women in politics. This does not rely solely on numbers or quotas in representation, rather the nitty gritty of politics. Inclusiveness in all areas as it could be argued that even the few women in legislation have not actually impacted much on gender concern as there is no correlation between getting women into political offices and these women going after policies of gender equality.

The pertinent question that arises at this juncture is, how did these women get into office? Is it by interest? Were they opportuned to serve

because they are wealthy or through a god father? Do they have political skill? And the atmosphere of operation-conducive or patriarchal? Yes leadership could be both intrinsic and extrinsic. Freire's conscientization could teach democratisation in democracy, political training and a better climate of operation than what obtains presently.

Freire's conscientization and dialogue are embedded in democratic values. The Nigerian society need to appreciate the expanded understanding of democracy through a rights-based model of statesmanship that promotes civil liberties, participation and inclusion in an egalitarian society. Although, it is clearly written that every Nigerian has the right to seek candidature into political offices and not to be disenfranchised in any way, we all know that in practice it is a big task. The right education through Freire's theory recognizes problems, later reflection and positive action to get out of the problem.

Women and the citizens as a whole need to pass through political training where the tenets of democratic politics is learnt through the recognition and articulation of interest in order to reduce apathy, build consensus and cooperation among women and change the orientation of the people at large. Women are their worst enemies, situations had arisen where women who venture into politics are seen as outcasts, and tagged as women who cannot be controlled by their husbands. Emanating from this phenomenon, education to build alliances amongst women is deemed necessary by observers.

Dialogue is a salient characteristic of Freire's theory. Debates and training in the likes of secondary school debates for and against argument are very useful here. This will teach respect and tolerance of other people's opinions and ability to accept successes and failures. All these could be applied to political training and the arts of politics.

Democratic politics should thrive better than the present situation with the growing realization that equality of purpose is salient to a developed society. Awareness is developed and transformation occurs through critical reflection. That is, when a woman operates on the same pedestal with men in socio-economic and political spheres, a better atmosphere of operation is reached. Then the issue of hidden patriarchy in the pretext of equality is removed.

2.7 Adult, Non Formal Education and Conscientization for Effective Democratic Change in Nigeria.

Adult education is recognized as an element of a rights based model of education [UNESCO,2010]. Recently, adult and non-formal education has been viewed to include Lifelong learning which is encompassing. Lifelong learning is a continuum that seeks to assist learners in building upon the

previous experiences to articulate and update abilities, interest and knowledge while promoting competencies in assisting people to adapt to knowledge based society.

Educational institutions and Non-Governmental organizations undertake adult and non-formal education courses and programmes which include basic literacy of teaching the art of reading, writing and numeracy and vocational skills to enable beneficiaries have socio-economic skills to function in the society. There had also been cases of the teaching of voter education by non-governmental organizations especially, when elections are approaching. This is often done by women in market places to mobilize for votes. Adult and non-formal education for conscientization is indispensable at this juncture. Adult education has been seen to solve societal problems. It should be a ready response to abate this anomaly of weak democratic values. Illiteracy and literacy that does not have the core values of conscientization and dialogue have been observed to pervade the Nigerian society.

Conscientization and dialogue is both theory and practice that is, a dark stage→reflection→ and positive action in Freire's illiteracy process which reflects liberation. In conscientization a literate is expected to have passed through the process of critical thinking to discover the state of the matter and then undertake a critique of the situation around her or him which includes the social, economic and political circumstances thus, transforming ugly situation and being empowered towards changing the status quo.

Adult education practitioners are yet to tap and appreciate women's population for civic training and democratic participation. Why should voters' education be given only when elections are near? and only to learn how to vote well. Women need education to build alliance, learn modes of cooperation and consensus building, recognize and articulate interest. Also, to entrench deliberative democracy such that occurs in national assemblies, training that include the debates of secondary school days to sway others in deliberative actions, to mount argument and also to learn to accept failures. Freire's dialectical is practical and inclusive rather than silencing women especially, when installed by god fathers to fill a political position and probably to increase numbers of quotas.

Adult education could be formal, non-formal and informal. This diversity in adult education makes it flexible to address societal imbalance. Education and training to include the type of apprenticeship listed above could be given in market places, mosques, churches, and schools, community learning centres, on radio, television and mobile phones

Conclusion

The paper has been able to establish a hard stance occasioned by culture, tradition, the form of education and training received as that which

engages women as tools for mobilising votes rather than creating a joint responsibility of the decision- making of both sexes which had actually affected the height of democratisation and the positive development of the society.

Freire's philosophy of conscientisation and dialogue in Adult Education as a lifelong learning process has been argued to be the best antidote for ensuring consciousness raising of all towards the political situation of the environment, igniting the necessary positive action in changing, removing apathy largely among women and building the necessary political training that will place the people on the right footing by eliminating gender stereotype and bias among the people for the development of their society.

The participation of the prominent women in this study in politics was a right step. However, this needed to be enhanced by fellow women. Also, the right education and training of the people at large towards effective mobilisation and collaboration for an organised sustainable participation and engagement of women in public square is desirable.

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Appendix



Women participating in political campaign



Researcher and women exercising franchise in the scorching sun

Nightmares and Burden of Imperialism in Two African Plays

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Doi: 10.19044/elp.v4no2a4 [URL:http://dx.doi.org/10.19044/elp.v4no2a4](http://dx.doi.org/10.19044/elp.v4no2a4)

Abstract

The history-drama nexus accounts for the fascination shown by some writers in adopting history as a source for playwriting throughout the ages. Existing studies on historical plays and imperialism have focused on profiling and dignifying the African leaders that are victims of exploitative imperial lords and explicating the predicaments experience by them with little or no consideration for the stylistic techniques employ by the historical plays playwrights. This study, therefore, examines nightmare as a technique for establishing a psychic context for unveiling colonial histories with a view to establishing the link between the conflict of the characters and the predicaments of their societies. The study is based on Carl Jung's model of psychoanalysis which allows for the investigation of characters' unconscious motives which manifest in recurring nightmares. Two of Ahmed Yerima's prominent historical plays are purposively selected: *The Trials of Oba Ovonramwen* and *Ameh Oboni the Great*. The plays are subjected to critical textual analysis in both content and form. The nightmares provide the framework for unveiling the plot, revealing characters' motives and connecting personal and collective histories through patterns of images of the colonizer and colonized. Thus, nightmare is a quintessence of technique for redefining imperial histories.

Keywords: Nightmare, History, Colonialism, Psychic context.

Introduction

Specifically, this study is bringing to the fore the prevalent device Yerima employs when he connects drama with history in relation with Nigeria's past historical characters, especially the monarchs during the era of colonialism. In highlighting and analysing Yerima's dramaturgy in plays of

colonial history, it is discovered that there is the use of nightmare to portray the historical conflicts in the plays and to celebrate the historical heroes as well. It is imperative to know that through nightmare, Yerima interrogates history and he provides the distinction between the unconscious and conscious minds of the character. As such, he privileges the psychic context or mindset of the character over the historical content. The plays we shall examine are Ahmed Yerima's *The Trials of Oba Ovonramwen* and *Ameh Oboni the Great*. The intention of the playwright to rejuvenate, regenerate and redefine historical characters in these plays is in line with Adesina's (2012:4) view that sees history as the total "embodiment of humanistic studies that piercingly look into the global and contemporary spread of ideas and culture..., interpenetration of values and a host of others". The ideas, culture and value Ahmed Yerima drives home in these plays are manifested in the passionate treatments and presentations of the historical sources and characters in the texts, using the aesthetics of nightmare. The nightmare becomes the veritable aesthetic technique that will make the sources and characters fit into the world of comparative literature.

The literary world contains countless references to the topic of dreams (unconscious states of human minds in general). Subtle differences exist in the treatment of dreams and their patterns in dramatic literature from author to author and society to society. Our analysis of nightmare as a pattern of dream will serve as a useful means to explore nightmare separately. Dreams are successions of images, ideas, emotions and sensations that occur involuntarily in the mind during stages of sleep. (Grunebaum, 2000:146). In the same vein, Adeboye (2010:8) defines dreams as a series of mental images and emotions occurring during sleep that are likely to dictate the dreamer's life. From Grunebaum and Adeboye's views, dreams appear to be caused by external powers of the supernatural since they occur when man is asleep and unconscious. There are various patterns of dream such as trance, daydream, hallucination, nightmare, etc. But the use of nightmare shall be our focus. The exploration of nightmare and Yerima's dramatic talent in this work will be influenced by Psychoanalysis as the theoretical framework.

The Aesthetic of Nightmare

More often than not, dreams were thought to influence the actions of the living or to foreshadow events (Weldhorn, 1988). Nightmares are more aligned to this view than other forms of dream. Also, Herodotus, the fifth century B.C Greek historian, believed that nightmares carry more prophetic messages than other forms of dreams because he believed that nightmares simply reflected and represented the walking thoughts and concerns of the dreamers. Thus, Herodotus' way of understanding nightmares and dreams in general suggests that they can be seen as mirrors of reality (Tiemey, 2010).

According to Veldfelt (1999), a nightmare is an unpleasant or frightening dream that can cause a strong negative emotional response from the mind, typically fear and horror, but also despair, anxiety and great sadness (78). Nightmare may contain situations of danger, discomfort and psychological or physical terror, Sufferers of nightmare usually awaken in a state of distress and may be unable to return to sleep for a prolonged period of time. The usual result of nightmare is creation of emotions in the mind of the dreamers consciously when he or she wakes up from the sleep. These emotions occur as anger, fear, anxiety and so on. These emotions will be examined in the character of Oba Ovonramwen. There are nightmares he has on different occasions where various images, characters and horrible events similar to those of real life surface. The symbolic creations in the nightmare accentuate or propel his reasoning attitudes and the subsequent actions and inactions in real life.

From the summary of the play, we learn that the culture of the Benin people forbids the Oba from receiving strangers during the Ague festivals. It was during this period that Consul Philips and his men proceeded to Benin to discuss business with the king. The Oba's emissaries met them and advised them to come another time since it was glaring that the Oba would not see them because it is a taboo for the king to do so. They, however, ignored the advice and advanced to the city. That led to their misfortune. Benin warriors attacked them and, in the process, Consul Phillips and six other Europeans in the delegation lost their lives. In reprisal, the British government invaded Benin Empire, looted and burned it down. Oba Ovonramwen was dethroned and exiled.

Prior to the sacred celebration of Ague festival that forbids the Oba to receive strangers, he has a nightmare. The message in the dream is for the Oba to take absolute caution when dealing with the whitemen. In his conscious mind, the Oba, through the stories he hears from his grandfather and father has been acquainted with the fact that whitemen are only interested in the booming economy of Benin to study everything the Benin people had, which could yield them both political and economic gains. The Oba is now highly disturbed to realise that it is during his reign that the

whites have come to take what they had eyed and seen during the reign of his ancestors. When he has a dream where his father is heralding a message of caution, he feels bad because he does not know the very area in which to take caution, whether to allow the continuation of the Ague festival by disallowing the whites from entering Benin or to discontinue the festival by allowing the whites to come in. He narrates his dreams:

...if only I had finished the dream. Two nights ago, in my moments of light sleep. I beheld the spirit of my great father before me, three times he called my name and three times did I answer. Idugbowa, he said, no matter how experienced the woman is at peeling onions every new one brings her to tears. Caution, he warned. Caution? About what? I asked him. In his usual unknowing smile, he turned his back and walked away into the mist of the night. (37).

The dream becomes a nightmare because it has created in the mind of the Oba anxiety, anger and fear. As it has been said earlier that nightmare helps the dreamer to interrogate thoughts, Oba Ovonoramwen becomes pensive and he decides to receive the whites. This sudden change and fly in the face of the sacred Ague festival causes consternation to Uwangué and other Benin chiefs because no Oba has ever done such a sacrilegious act during the sacred Ague festival. Yerima employs this machinery of dream to show the distinction between illusion and reality propelled by fierce internal discrepancy and struggle between symbolic creations and messages in dream (unconscious mind) and actual manifestations in consciousness.

To heed his father's message in his nightmare, he must be double-minded by attempting to placate the chief priest and other prominent personages in the celebration of Ague festival and to reason with the exigency orchestrated by the impending visit of the whites. So, he finds himself in a predicament, as this is evident in his words captured below:

My back scratches me and all my friends offer to help me scratch it, they even tell me how to scratch it but no one knows the spot. No one even asks me how the pain goes. No one! Ologbose, no harm must come to the whitemen. I repeat, no harm! Eyebokan shall take you there. Tell them that I will see them but only for some hours. No more. Bring them in the dark through Urho'kperé. (*The Trials*; 38).

With careful perusal of the state of mind of the Oba and the consequent command, it will be seen that there is a great anaphoric reference to the nightmare he has. To a large extent, Yerima privileges the psychic context or the mind's reflection of the Oba over the historical situation in the text, which is the inhuman subjugation and forceful exploitation of Africans by the British colonialists who feigned to be friends with African leaders

whereas they are economic vampires and looters. Another remarkable thing about the above nightmare is that it serves as the meeting point of the supernatural and the natural world. It means a process of receiving a divine message or vision concerning what is about to come. The image he (Oba) sees in the nightmare is his late father and he represents a supernatural being and an ancestor that visits his living son to acquaint him with what will befall his reign in future. This, therefore, plays a central role in the mind of Oba Ovoramwen to meet the pressing socio-political needs of his kingdom during wakefulness. It is, therefore, possible to say that Yerima projects nightmare in the above usage to provide the king with emotional preparation for solving problems that will emerge when he wakes up from the dream. The nightmare encourages him to receive the whites and to discontinue the Ague festival not minding the cultural implication of it. As the Oba hearkens to the advice of caution, he believes that the motive of the visit of the whites is Trade Treaty and he prepares to handle them diplomatically to avoid war. He observes that “whiteman’s ways are different. If we do not want war, then let us treat them with care, giving them no reasons to stay in Bini” (*The Trial*; 38). The message which the Oba receives, “caution”, has precipitated him to welcome the stranger at the expense of his culture. By this action, the seemingly historic entry of the whites is portrayed by Yerima as less historic in the play but the psychological stimulus and responses of the king to the historical situation is prioritised because he has received a premonition message as a nightmare concerning it.

As astute as his reaction to this cultural conflict looks like, it is doused with the repulsive feeling of his chiefs who betrayed the Oba by killing the white delegates as result of cultural nationalism by some of the chiefs, like Ologbose, Ugiagbe and Obaradesegbon; and intrigues by some chiefs, like Uso and Obakhavbaye.

It is highly interesting that while the king is waiting for the arrival of the white delegates he begins to have a strong misgiving about the safe arrival of the whites. At this juncture, he narrates the burden in his heart, which is the recalling of the nightmares he has been having:

For seven days now have I continued to have the same nightmare. What is it that can disturb my father, Adolo so? He sleeps little these days.

Tonight, same time as the past six days, he came into my sleep, with all my great fathers before me. All Obas before me, all in their royal funeral robes. In one single file they stood. In one single. Heads bent. As I walked past them trying to catch the eyes of each one, they turned away. Adolo, my father turned last. Not one word. And then came the little slave boys with a calabash handed them by my chiefs. It was

too dark to see their faces as the chiefs stood in the shadow behind my ancestors (pause). The boys came close to me, and as I turned to ask them what they carried, they threw the content of the bowl at me. Behold (Agitated) it was blood! What evil thoughts do the chiefs have for me? Some of them plotted the death of my chief adviserBut this worrisome dream, this bowl of blood. Whose blood? (*The Trials*; 42-43)

This recurring nightmare, as it is narrated, has depicted the poignant and turbulent nature of the Oba's mind. It has heralded a strong message of an impending crisis and uproar that may not abate. In view of the message in the nightmare, its symbolic creation of bloodbath and the intrigues and self centredness of some of his chiefs, the historical situation and predicament have been unveiled. Yerima has used the nightmare to redefine history. He (Yerima) has successfully presented dream as part of the history to unfold the events of colonialism. This is so because the reoccurrence of this nightmare for seven consecutive days is a sign of its inevitable fulfilment. Yerima portrays this nightmare to serve as technique of foreshadowing and flashback to the physical and psychological conflicts in the play. As Jung posits (1969:41), recurring dreams show up repeatedly to demand attention suggests that the dreamer is neglecting an issue related to the dream. Jung here is of the opinion that many of the symbols or images like the procession of Oba Ovonramwen fore-fathers in their funeral robes, their silence and the bloodbath from nightmare return with each reoccurrence to demand serious and critical attention. So, when the king wakes up from sleep, he becomes agitated. He wants to know more about the bowl of blood and whose blood. The agitation, either physical or psychological to know more about the likely interpretation of the symbolic creation in the nightmare brings integration of thoughts to the king.

However, Yerima artistically also employs nightmare from another dreamer, a character called Uzazkpo, the court jester, as a technique of flashback to awake the memory of the Oba concerning the internal conflicts and intrigue in the land. This simultaneously acts as a solace or answer to the king's agitation about the bloodbath in his nightmare. The technique of nightmare needs to be appreciated artistically because the playwright uses it to clear the coast of historical time, space and conflict by dwelling intensively on the mind of an African king during the period of culture contact. After the nightmare of Oba Ovonramwen, in his wakefulness, he hysterically asks, "but this worrisome dream, this bowl of blood. Whose blood? (43). Uzazakpo answers unconsciously from sleep, "Mine! (*The Trials*, 43). This is somewhat funny. Nightmare counters nightmare! Yerima portrays nightmare here as a revelation that can uncover and help to resolve emotional, physical and socio-political problems and fears. Uzazakpo's

nightmare brings back to the Oba's mind an event of the past that is so vital to the present prevailing situation in the text. Uzazakpo narrates his nightmare:

As I was about to eat the food, you gave me in my dream, some chiefs came in and ordered me out. You them asked one of them to go and ask that I be given more soup since the eunuchs have banned me from the kitchen. But instead he took me out to where three slave boys had been waiting with a calabash bowl of red milk for you and ordered them to take me to the pit and cut off my head. As they tied my legs and feet, I saw the face of the ghost of Thompson laughing (44-45).

As nightmares are used to integrate the thought of the dreamer (Hartmann, 1995:215) this Uzazakpo's nightmare propels the Oba to ask for the identity of Thompson who laughs in Uzazakpo's dream. Surprisingly, this reveals a past remarkable killing in the land before the advent of the whites and the consequent prediction of the victim of the killing shortly before his death. Thompson, says, "the whitemen were coming to fight and conquer Bini and the rest of the empire (45). The literary significance of these nightmares is that the playwright uses dream motif to develop his fictional characters and their characterisation. He (the playwright) uses nightmare to expose the pangs of colonialism and present the distinctions between the conscious and unconscious mind to reveal and tackle the problems and fears of human existence. Apart from the revelation of the past through Thompson's laughter, Uzazakpo's further narration of his nightmare reveals shocking message about the present and imminent situation in the land:

As Thompson Oyibodudu laughed, seven other white ghosts smiled nodding like red-necked lizards, giving approval that they behead me. All this trouble, all for a bowl of food. (*The Trials*, 45).

The seven white ghosts who smiled and approved the killing of Uzazkpo in the nightmare are the seven white delegates that the chiefs murdered and the colonial Lord is angry about it. Hence, he is seeking reprisal. The revenge from the white colonialists leads to the great massacre in Benin, which is symbolised by the bowl of blood in Oba Ovonramwen's nightmare.

Yerima has successfully used nightmare with crystal message of caution to redefine the history of Benin kingdom under the kingship of Oba Ovonramwen. It is through nightmare that he breaks the tradition of the sacred Ague festival in an attempt to be cautious in alignment with the message in the dream; Yerima does this to privilege reason and personal

psychological reflections above communal interest. This heroic deed by the king is worthy of emulation by the present democratic leaders in the contemporary society like Nigeria. In Nigeria, there is a lot of over-reliance on bureaucratic policies in the public service, delay of justice as a result of over devotion on frivolous judicial processes. Laudable projects cannot be implemented because of one bureaucratic rule or the other while workers and the masses are denied promotions and progress as a result of red tapism. To press forward and progress with these unchecked dragons, the leaders must be daring like Oba Ovonramwen in this context.

It is a pity that in spite of the seemingly lucid and eventful actions of the king, he psychologically and physically suffers set back as a result of clash of interests, self-centredness and intrigues displayed by some of his chiefs. But the tragedy that befalls his personality and the entire community is no longer a shocking one because it has been revealed to him covertly in his nightmare in the above analysis. Thus, Yerima artistically adopts nightmare to develop the plot structure of the play, the hero (protagonist) psychologically and physically and to annex other dramatic elements that emerged in the play such as flashback and foreshadowing. Another great influence of the nightmare is that it subsumes and highlights the extent of human acrimony and intrigue on one another.

In *Ameh Oboni*, Attah Ameh Oboni has a nightmare continuously for seven good days. In the nightmare, his life is in danger as he escapes from one predicament to another. He stumbles on a “white pebble” that further heightens his predicament. The “white pebble” symbolically refers to a white stranger which means colonial power. This suggests that a super domineering force is imminent to take away or weaken his domain and kingdom if appropriate caution is not applied. The recurring nature of the nightmare demands attention as Jung (2002:14) opines that recurring dreams are suggesting that the dreamer is neglecting an issue related to the dream. The nightmare shows a poignant encounter of Attah Ameh Oboni who stumbles on a “white pebble” and he finds it difficult to rise up (*Ameh Oboni*, 16). He becomes anxious, fearful and sad when he wakes up from the sleep. He, thereafter, resolves in his mind to embark on practical issues that will ensure the non-fulfilment of the nightmare. He acts quickly and cautiously. He consults the oracle, “My heart is full of worry...I ... ask the gods (*Ameh Oboni*, 17).

The use of nightmare here as a stylistic technique to develop the plot structure of the play tallies with Kennedy and Gioia’s (1995) view of dream as a story or thing whose actions implicitly symbolise some profound truths about human or natural existence (808). This nightmare symbolically enacts some deep truths about the nature of Ameh Oboni’s kingdom, his desires and wishes. The dream occurs at the time the white colonialists and local

Islamists were making attempt to creep into the socio-political and religious existence of Igala people. Subsequently, the king becomes troubled in his dream until he stumbles on a white pebble and it becomes difficult for him to rise. The deep truth about his desire is to have absolute control on his subjects and kingdom, which was paramount before this frightening dream. His wishes now are how to prevent the fulfilment of what appears or surfaces in his dream. When this is observed psychologically and literarily, the playwright has portrayed the inner mind of the protagonist to unfold the plot development of the play. He (Playwright) works on the mind of the character more than the historical situation in the text. Attah Ameh Oboni becomes restless, fearful, sad and inquisitive. He wants to know about his destiny and what to do to lessen his psychological turbulence.

As part of practical actions to maintain his domineering prowess, he summons series of meetings with the palace chiefs and priests. Thus, the nightmare becomes an action-determinant to the protagonist as this is seen as Attah Ameh Oboni narrates his ordeal:

A dream, Ohiaga, One that drives fear into my soul. A dream repeated for seven days at the same time and same place is no longer a dream but a message. Speak to the gods, Ohiaga... Speak (17).

From this excerpt, Ameh Oboni sees the nightmare as a mirror of reality. The frightening images he (Ameh Oboni) encounters in his sleep have metamorphosed crystally and metaphorically to patterns of emotional expectation. An urgency of action is required to avert the possibility or similitude of the fulfilment of the nightmare. The emotional expectations have overtly brought out the development of both inner or mental and physical struggles of the protagonist in order to maintain his kingdom. It is then clear that Yerima employs nightmare as a literary technique to develop the plot structure of the play.

When consulting the Ifa priest, Ohiaga, Ameh Oboni pours out all the detail of the nightmare:

First, it starts with the twinkle of a star, it shines and then it dims into total darkness, as if one blows out the oil lantern. (Pause thoughtfully). The stench of the person's breath reminds me of someone... His lips are curved as ours are, when we curve it to blow sometimes, he murmurs in our language in deep breath. He says "out with your life, out! And then chuckles as his face blends with the darkness... Out of the darkness come three images drenched in blood running. Ami, Onede and mine Ami... that was the name I called my mother who gave me life as man. Onede.... My mother who

gave me life as a king... Onede. She reversed the role, with a sharp knife she chased me (*Ameh Oboni*, 17-18).

In actuality, according to the tradition of Ameh Oboni Kingdom, Ami and Onede are to be his spiritual and physical guardians. Their appearance and actions of attempting to murder him in the dream make him to be more worried and heighten his mental aloofness to other happenings in his society. Nothing matters to him again except anything that can allay his fear concerning the dream. He continues the narration of the nightmare:

That is what frightens me. There she was calling my name. (As if in trance) "Ameh, come... come here and die," she screamed. My mother, Ami, also screamed... "run, son... run" . as all three of us ran Ami fell. For one second I looked back and saw her trampled upon by the royal horse. I kept on running. At this time my tongue struck out dry, my tongue stuck out dry, my eyes bulging and from a distance I could hear the chiefs cry out..... grab him Kill him.....strangle him.

I ran until I got to the gates of Ojaina.....

With one force, I yanked the gates open and ran in.

There... there was a bright light shining. I ran towards the light, not knowing how Onede had come. I ran until I stopped with a jolt, as the bright light shining shone, it became a white masquerade, with a broken hand. The other hand held a piece of cloth from my Okogbo... as I stood rooted in shock in front of the white masquerade, I felt the cold tip of Onede's knife behind my back. In one swift movement, the white masquerade gave the piece of cloth to Onede who tied it round my neck. As I died slowly, I heard my mother's voice...."call your people.....call your people....." she spoke softly.....with my last breath I did...but no one answered. (18-19)

From the symbolic creations in the nightmare, African characters like Ami and Onede represent the Igala people who once adored, respected and worshipped their monarch, Attah Ameh Oboni, but surprisingly in the dream they become hostile to the king because of the presence of the demi-god, the white masquerade. The nightmare has already preached the message of colonialism, disintegration and disharmony. The nightmare also reveals the instrument the colonialists used to have easy access into the hearts of the African, which is betrayal or disloyalty. This nightmare, indeed, has been used to unfold both the thematic message and the development of the plot structure. The playwright has artistically invented nightmare to provide avenue for insights to the arrangement of events in the play and the

development of the protagonist's character. The frightening images in the dreams make both the audience and the protagonist to have the premonition of the likely disintegration and conquest of Igala land by the British imperialist.

Earlier on in this study, we see nightmare as thought integrator in *The Trials*. Similarly, in *Ameh Oboni*, it helps the protagonist to integrate his thoughts. He becomes reflective on how to avoid the message and symbols of the nightmare. Then, he resolves to assert himself and this artistically results in the complication of the plot. The self-assertion comes in his firm refusal to accept British or foreign culture in his kingdom. He makes sure that the indirect rule system of J.D Muffet meets with little or no success in Igala land. The use of nightmare in *Ameh Oboni* shows the depth of artistic creation in the characterisation of the dramatis personae through the use of fears and anxieties from the conscious and unconscious human activities. It also shows how Yerima's fictional characters are developed artistically from the past historical world to view human action within the purview of fate and reality. Human beings are always anxious about the future, especially when there is a premonition about the future either through dreams like *Ameh Oboni's*, prophecy or any other unconscious revelations.

The memory of his nightmare provokes him to dare the order of the white man and it strengthens him to maintain his pride and dignity as Attah (king) of Igala people. The colonial administrator, J.D. Muffet, sends a message to him, which forbids Attah from entering Igala land. He replies the message thus:

I am Ogwu Kumaja lagba ki lubi wa jene. Tell your master: Ameh Oboni the Attah of Igala does not cower before the enemy. I am the expected war of the east who surprises his enemies by appearing in the west. I am the big masquerade who dances in step with the gods. He is the white man, but the Attah is the god of his people. Whether I am there or not, the Attah is the Attah. There is no need to concentrate on fighting the smoke, when the big fire rages. Tell your master that tomorrow I shall be in Idah greater than I left. Tell him that I am the Attah, and my people know that too. Go! (54)

This brave and courageous reply emanates from the memory of his nightmare. In the nightmare he dies helplessly, slowly and cowardly. And when actual event in his wakefulness tends to move closely towards the manifestation or fulfilment of the dream, that is, it becomes a certainty that his kingdom is about to be taken away from him, he braces up to rise to the occasion. He needs to behave gallantly to arouse his god-like nature. To him, even if the end is coming, he must be courageous and valiant. The present imbroglio and power tussle between him and J.D. Muffet and the

nightmare make him to be more conscious of his status as an Attah and the accolades and praises attached to the position, as his people usually praise him in the following words:

Ameh Oboni is a god... blessed by Odoba....

Ameh Oboni is a spirit; he flies both day and night

The greatest Attah of them all

Ameh O. Oboni... the great messiah of Igala land (33).

However, when it appears that the British encroachment is inevitable, he commits suicide as the only option left to ensure the non-fulfilment of his nightmare and to avoid humiliation from foreigners and disloyal members of his kingdom. Nightmare is used by the playwright as psychotherapy. All the emotions and desires to resist the white men in order to have full or absolute control of his kingdom fail in the end. And this is the exact picture and message in the dream.

The nightmare as a stylistic device in *Ameh Oboni* becomes a pervasive and essential component of the collective memories of the society. The dream becomes part of the history of the society which shrouded the remarkable realities of the past historical characters like Attah Ameh Oboni. His nightmare is ultimately an expression that reflects the norms and ideals of the time and location in which it is created. In this sense, nightmare becomes a stylistic evolution of history in drama. This is logical because the essence of history is to integrate thoughts and propel good ideas and ideals into the contemporary world. The essence of dream is the same in this context, as this can be overtly seen in Attah Ameh Oboni whose nightmare becomes a compass to all his directions in the play. When the revelations signified in Attah Ameh Oboni's dream are eventually fulfilled, his subsequent action of suicide becomes historic. Therefore, nightmare has become part of the societal history, which re-enacts and rejuvenates past realities. It is therefore suffice to say that Yerima employs nightmare to redefine history and for the development of characters in Ameh Oboni.

Conclusion

This paper submits that Ahmed Yerima handles nightmare artistically in the two historical plays to produce a form of psycho-historical drama in African dramatic literature as a new sub-genre. It can be seen that a psychic context is identified in the plays at the expense of social and historical contexts. The psycho-historical plays in this study show the hybrid or marriage between psychology, history and drama.

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