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Discovering Thoughts, Inventing Future

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Checkbox "Other": An Exploration of the Intersectional Experiences of Nonbinary and Gender-Diverse People of Color

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Keywords: nonbinary, person of color, intersectionality, stereotypes, lived experiences, gender identity, LGBTQ+, cultural influences, minority identities, social perceptions.

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Talaya Flicop [α] & Sarah N. Mitchell [σ]

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Keywords: nonbinary, person of color, intersectionality, stereotypes, lived experiences, gender identity, LGBTQ+, cultural influences, minority identities, social perceptions.

I. Introduction

Even though up to one-third of the transgender community identifies as nonbinary, there continues to be a notable lack of research dedicated to nonbinary gender identities (not exclusively "man" or "woman") as opposed to binary gender identities (exclusively "man" or woman"; Matsuno & Budge, 2017). Previous research has demonstrated that the experiences of nonbinary individuals are idiosyncratic compared to those of binary trans individuals (Harrison et al., 2012). In analyzing data from the 2008 National Transgender Discrimination Survey, Harrison et al. (2012) reported that, at the demographic level, those who chose to write in their own gender label were more likely to be transmasculine, multiracial, experience violence and sexual assault, and avoid seeking healthcare and police assistance when compared to participants who indicated their gender was "male/man", "female/woman", or "part-time as one gender, part-time as another." The nonbinary community is troubled by this invisibility and continues to face unique challenges that increase nonbinary individuals' risk of psychological distress and suicide (e.g., navigating institutional binaries such as public restrooms or paperwork that only includes male/female, frequent misgendering due to unfamiliarity with they/them or neopronouns [those different from she/her/hers, he/him/his, or they/them/theirs], rejection from binary trans individuals; Matsuno & Budge, 2017; Jacobsen et al., 2023).

Although public recognition of the transgender community as a whole has increased in recent years, nonbinary people still report a scarcity of community ties (Fiani & Han, 2019). This is problematic because community ties have been shown to provide valuable benefits, such as feelings of affirmation and authenticity (Coburn et al., 2023). While binary transgender individuals are likely to encounter challenges related to stigmatizing messages, the general lack of resources available to nonbinary individuals provides no frame of reference or support for identity exploration (Fiani & Han, 2019). Some symbols indicate support for minoritized identities (e.g., a rainbow flag, ethnic diversity in the workplace) and impact how minoritized individuals navigate and interact with spaces and communities (Clary et al., 2023). Likewise, Clary and colleagues found that a lack of supportive symbolism (or the inclusion of unsupportive symbolism) may impact minoritized individuals' emotional, cognitive, and behavioral responses to their environment. Given the increased likelihood of mental health distress, the sparse representation of gender diversity beyond the binary and the racial/ethnic diversity there within warrants further exploration into these topics. The potential scholarly and societal impacts of inclusively in social science research can be far-reaching.

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a) Gender Stereotypes and Transnormativity

Gender stereotypes and transnormativity (i.e., the ideological structure that sets the expectations of what it is and what it *should* be like to be transgender; Johnson, 2016) permeate Western society. Ellemers (2018) discussed that gender stereotypes have been researched in many contexts. However, because gender is almost entirely perceived as binary (in Western society), there tends to be an immediate, and sometimes unconscious, categorization of individuals as either a man or a woman and the subsequent comparison of these two groups. Since stereotypes inform not only the expectations of what someone *will* be like, but also what they *should* be like, those who diverge from stereotypical assumptions tend to stick out. Additionally, stereotypes have the power to influence who is viewed as a "good" group member, and therefore, for those who assign high importance to their gender identity, being aware of and properly performing the behaviors prototypical for their group is essential (Ellemers, 2018). As a minoritized group, trans and gender-diverse (TGD) people engage in various forms of stigma management to escape or prevent negative evaluations from others. As a part of this process, TGD people must be acutely aware of behaviors or appearances that may become targets for social rejection (Meyer et al., 2023).

On top of the rigid beliefs held about cisgender men and women, transgender individuals are also exposed to transnormativity (Johnson, 2016). These expectations may affirm the identities of those whose experiences align with the prevailing narrative, but simultaneously alienate and erase the experiences of transgender and nonbinary people who do not conform (Johnson, 2016). For example, medical transition is thought to be a salient aspect of being transgender, especially for transfeminine individuals (Gazzola & Morrison, 2014). However, nonbinary people, on average, are less likely to report the desire to pursue medical transition (Fiani & Han, 2019). Any divergence from the dominant narrative has the potential to create a fear of not being "trans enough", which is a worry that is particularly strong in nonbinary populations (Garrison, 2018). Additionally, although many claim membership in the transgender community, it is possible to identify as nonbinary but not transgender (Matsuno & Budge, 2017).

Contributing to the topic of transnormativity, some research has investigated binary transgender stereotypes (e.g., Gazzola & Morrison, 2014; Howansky et al., 2021), but to the authors' knowledge, there is no established research on what stereotypes exist about nonbinary gender identities. This may, in part, be due to a general lack of awareness of nonbinary identities. Take, for example, the media – one of the primary means by which cultural ideas are communicated. The repertoire of transgender characters is slim, but genderqueer characters, even more so, are excluded by the tendency to depict such characters as exclusively and consistently masculine or feminine identifying (Capuzza & Spencer, 2017). Thus far, nonbinary people have often described navigating the rigid expectations of the traditional gender binary by aiming to make it difficult for others to classify them as either men or women (Barbee & Schrock, 2019). While this may be restrictive for some nonbinary individuals, others describe the "confusion" about their gender as validating to their identity (Beischel et al., 2022). As nonbinary gender identities continue to enter the realm of public awareness, this fight against gender stereotypes may lead to the creation of unique stereotypes suggesting what it means to be *neither* a man *nor* a woman.

Researchers have consistently found that nonbinary and gender-diverse individuals are likely to experience some adverse outcomes related to their specific minoritized identities – connected to how others feel about them and, sometimes, how they feel about themselves (Herman, 2013; James et al., 2016; Neubauer et al., 2023; Pease et al., 2022; Puckett et al., 2022; Rood et al., 2017). Trans and gender-diverse individuals often ruminate on "reflections about misgendering, connection/disconnection from other TGD people, safety as a TGD person, gender affirmation, social narratives about TGD people, body-related thoughts, concerns over others' perceptions of one's gender, and the political restriction of TGD people's rights and protections." (Puckett et al., p. 547). Additionally, Pease and colleagues (2022) found that when trans and gender-diverse individuals experienced minority stressors (i.e., family rejection, threat of harm, and identity invalidation), they were more likely to report higher levels of psychological distress than those who did not experience these stressors. Identity invalidation seemed to be especially meaningful for psychological distress after controlling for several covariates (e.g., education and employment status; Pease et al., 2022). In a series of qualitative interviews, Rood and colleagues (2017) found that trans and gender non-conforming (TGNC) individuals reported emotional distress (primarily anger and sadness) in response to popular denigrating attitudes toward TGNC identities. As a result of the internalization of these messages, some participants experienced shame, heightened discomfort in their bodies, and difficulty in valuing their own lives (Rood et al., 2017).

Again, nonbinary and gender-diverse individuals report an increased likelihood of adverse outcomes related to minority stress (e.g., stress and negativity experienced due to being a member of a minoritized group; Meyer, 2003), stigma, identity invalidation, and global contexts (e.g., the COVID-19 pandemic; Everest et al., 2023; O'Handley & Courtice, 2022). These challenges are often directly related to

others' perceptions and expectations of them, as opposed to their gender identities per se. Given these experiences and outcomes, an increased understanding of the perceptions and impacts of gender-based stereotypes for this population is warranted.

b) Nonbinary and Gender-Diverse People of Color

It is crucial to investigate the experiences that nonbinary people of color (POC) have with identity-related stereotypes because of the ways in which negative messages contribute to minority stress. Meyer (2003) outlines internalized stigma as a form of proximal stress for lesbian, gay, and bisexual individuals. However, the concept can also be applied to the transgender and gender-diverse community (see Puckett et al., 2023) – especially for those at the intersection of minoritized gender and racial/ethnic identities (Rood et al., 2017).

Although some studies have investigated the personal experiences of nonbinary POC (see Coburn et al., 2022; Coburn et al., 2023; Nicolazzo, 2016; Rood et al., 2017), to the authors' knowledge, few studies on nonbinary identities specifically address race/ethnicity as a prominent factor. Some researchers will point out the experiences of people of color within a mixed sample, either quantitively (see Coburn, 2022; sample 77% POC) or qualitatively (see Rood et al., 2017; sample 60% POC). Nicolazzo's (2016) study explores the experiences of Black nonbinary trans individuals, but it is also important to note that the author used a unique definition of "nonbinary identity," referring specifically to "people who resist options to biomedically transition away from the sex they were assigned at birth" (p. 1175). In interviews with two Black participants, Nicolazzo found that both described an inextricable link between their Blackness and LGBTQ+ identities. However, the lack of overlap in identity-focused campus spaces resulted in a severance of self; the environment left little room for participants to exist as both Black and nonbinary at the same time (Nicolazzo, 2016). Rood et al. (2017) reported similar findings, in which TGNC POC encountered societal messages that prohibited TGNC identities and cultural identities from coexisting.

Conversely, Coburn and colleagues (2022) wanted to understand more about the predictors of well-being for binary trans and nonbinary POC – taking more of a strengths-based approach than many researchers. Binary trans participants reported that family support, religiosity, and connections to the LGBT community were connected to psychological well-being for binary trans individuals. For nonbinary people, only LGBT community connections were associated with increased psychological well-being (Coburn, 2022). Trans and nonbinary people of color are likely to face discrimination and violence but also exhibit resiliency and positive coping methods (e.g., participating in self-care, seeking mentorship and support from others with similar identities; Winiker et al., 2023). These results highlight the need to identify affirming supports for gender-diverse POC. However, given these racially mixed samples, it is hard to tease apart how these experiences are interpreted by racially/ethnically minoritized people in particular.

c) The Present Study

The two theoretical bases of inquiry used to guide this study are Minority Stress Theory and an Intersectionality Framework. Minority Stress Theory posits that one's position in a stigmatized social group, including LGBTQ+ and racial/ethnic identities, creates excess stress not experienced by members of the dominant group(s) (Meyer, 2003). This study examines the experiences of individuals who possess multiple minoritized identities, as other studies have done to explore the lives of LGBTQ+ POC (see Cyrus, 2017; Sarno et al., 2021). To evaluate this overlap, it is necessary to apply an intersectional approach. Intersectionality, as proposed by several African American feminist scholars, conceptualizes the distinct internal and external states produced by the convergence among multiple forms of oppression (Crenshaw, 1989; Stirratt et al., 2008). These concepts and frameworks are necessary for analyzing the experiences of nonbinary POC, who encounter unique obstacles related to their multiple minoritized identities.

To address these gaps, this study investigated the intersectional realities of nonbinary and gender-diverse POC living in the United States. Namely, the authors aimed to gain insight into the expectations and preconceptions surrounding nonbinary identities and their impacts on both conforming and nonconforming individuals. A second aim was to investigate what kind of influence culture and race/ethnicity have on gender development for nonbinary individuals of color.

II. Methods

A survey containing quantitative and open-ended questions was developed in Qualtrics by the second author and several student research assistants in the summer of 2020. This survey was distributed to inquire about the attitudes and experiences of people with multiple intersecting identities (e.g., POC, LGBTQ+, disability, polyamory, and others). Many survey respondents were recruited through a Western university research credit system, though some learned of the study through social media outreach efforts on websites such as Reddit and Amazon Mechanical Turk. Respondents had the option to indicate interest in being interviewed or being entered into a raffle to win one of ten gift codes (distributed twice a year for summer/fall respondents and winter/spring respondents). If so, they could leave contact information before and after completing the survey, which took 40 minutes on average to complete. Any identifying data was kept

anonymous and stored separately from contact information; only a random participant ID was used to find the contact info of participants who fit this particular study criteria (i.e., identifying as a person of color and nonbinary/gender diverse).

Those participants were contacted via a lab Gmail account to ask if they were still interested in being interviewed. Scheduled interviews were conducted and audio-recorded over Zoom, none lasting more than an hour. All participants were informed that their responses would be reported anonymously and were allowed to choose their own pseudonyms. Verbal informed consent was obtained before beginning the interviews, and participants were informed of their ability to ask clarifying questions or decline to answer at any time. During the interviews, a semi-structured interview protocol with 17 uniform questions was used along with follow-up questions tailored to the individual respondent. Refinement of the interview questions took place over the course of the first few interviews, based on frequently discussed conversation topics. Examples of the items discussed include: "What does being nonbinary mean to you?" and "Are there spaces that integrate both your cultural and LGBTQ+ identities?" All participants were given a $10 Amazon gift code as compensation for each interview.

a) Participants

A total of 24 interviews with 13 participants were conducted, including two member-checking interview sessions. One participant (and their singular interview session) was excluded from the analysis on account of not identifying as a person of color, resulting in a final sample of 12 participants (with one to three interviews each). All participants indicated in the survey that their gender was something other than exclusively man or woman, though some of them used additional labels beside or instead of "nonbinary" to describe their identities, such as "genderfluid", "queer", and more. Three participants were Asian, two participants were Asian and White, four participants were Black, two participants were Black and White, and one participant was Mexican and Jewish. The sample also included two assigned-male-at-birth (AMAB) individuals and ten assigned-female-at-birth (AFAB) individuals (see Table 1).

Table 1: Participant Demographics

Name	Age	Race/Ethnicity	Gender	Pronouns	AGAB*	Sexuality
Sally	18	Korean/White	Nonbinary	They/Them	Female	Queer
Alex	22	Indian	Nonbinary	They/Them	Female	Lesbian
Drew	19	Chinese	Nonbinary/Genderfluid	She/They	Female	Asexual
Paprika	24	Black/White	Nonbinary	They/Them	Female	Bisexual/Demisexual
Donovan	28	Filipino/White	Nonbinary	They/Them	Female	Pansexual
Aaron	20	Black	Nonbinary	She/They	Female	Asexual
Stair	19	Black	Nonbinary/Transmasculine	He/Him	Female	Asexual
August	18	Black	Genderfluid/Woman	She/They	Female	Lesbian
Hannan	21	Pakistani	Genderfluid	All Pronouns	Female	Pansexual
Alyx	18	Black/White	Nonbinary/Transfeminine	She/They	Male	Queer
Axel	28	Black	Fluid	They/Them	Female	Queer/Asexual
Carmen	21	Mexican/Jewish	Nonbinary/Transfeminine	Unspecified	Male	Bisexual

*Note: Participants Drew (Chinese, 19) and August (Black, 18) were the only two in the sample who did not identify as transgender. Additionally, August (Black, 18) did not use the term "nonbinary" to describe herself but identifies with the terms "genderfluid" and "woman," qualifying them for inclusion in this study. *Assigned Gender at Birth (AGAB)*

b) Analysis

After each interview, word-for-word transcriptions were produced with Otter software, and then manually spot-checked by the primary investigator. Descriptive phenomenology, a practice in which commonalities are found among multiple individuals' experiences with the same concept, was employed to describe the lived experience of a nonbinary person of color (Creswell & Poth, 2016). For this particular study, the focus was on participants' understanding of gender

stereotypes and expectations, in addition to experiences related to their intersecting nonbinary and racially/ethnically minoritized identities. Thematic analysis was facilitated via Dedoose Version 9.0.17 software (Dedoose, Los Angeles, CA 2021). Braun & Clarke (2006) describe thematic analysis as a qualitative research method that identifies and organizes patterns (otherwise known as 'themes') in a data set. The main advantage of a thematic analysis approach is the ability to describe the data in great detail without starting from an existing theoretical framework (Braun & Clarke, 2006).

The authors engaged in the six-step iterative process outlined by Braun and Clarke (2006). The primary investigator conducted all interviews and wrote memos to document potential biases, any feelings, notable occurrences, and participant statement highlights during each interview. The second author also reviewed transcripts and memos to become familiar with the participants' experiences (step 1). The first author then coded all interviews (step 2) and outlined potential themes (step 3). Both authors met and reviewed themes over several sessions to determine distinct and significant commonalities across interviews until a consensus was reached (step 4). The first author then defined and named themes with input from the second author over two sessions (step 5). In the final step, the first author worked to identify exemplary quotes for inclusion in this report.

After the formation of themes and subthemes, two member-checking interviews were conducted with previous participants. During these interviews, the researcher discussed the content of the study findings as well as their organization and presentation. Participants were consulted for their advice on wording and clarification to ensure that the themes listed were accurate to both their own experiences and what they perceived the experiences of others within their communities to be. The member-checkers agreed with all themes and wording as initially presented and elaborated on their own connections to the findings. The first member-checking participant emphasized that any nonbinary person's experience with the themes may vary based on their environment and that certain stereotypes may be more or less salient depending on the individual. The authors considered this sentiment to avoid applying overgeneralizations to all community members.

c) *Positionality*

The research team also wishes to acknowledge their own positionality as researchers. The first investigator identifies as nonbinary and biracial (Asian and White), and the second investigator is a member of the LGBTQ+ community and a Black woman. Although we may draw parallels between our personal experiences and those of our participants, we understand that each person's experiences are uniquely informed by their intersectional identities. The researchers proceeded with such ideas in mind and strived to make no assumptions about how participants might decide to respond to the research questions. To faithfully portray the experiences and perceptions described in the interviews, the investigators constructed the results following the wording of the participants and frequently cited the speakers whenever possible. Again, the primary investigator wrote memos following each interview to reflexively analyze their own thought processes during data collection. In sum, although no researcher is free from bias, the reflective processes utilized in this study aimed to reveal the "truth" of our inquiry as authentically as possible.

III. Results

a) *Research Question 1: Nonbinary Stereotypes*

As previously established, research has explored transgender stereotypes (e.g., Gazzola & Morrison, 2014; Howansky et al., 2021), but to the authors' knowledge, there has not yet been a targeted inquiry into the preconceptions and expectations surrounding nonbinary gender identities. The purpose of the first research question was to explicitly enumerate some of the stereotypes nonbinary people encounter and the ways that said stereotypes impact their experiences. Three subthemes concerning this topic emerged. Firstly, the most frequent stereotypes for the participants mainly involved presumptions about nonbinary individuals' visual characteristics and pronoun usage (i.e., "*Looking Nonbinary*"). Secondly, participants described attitudes surrounding the permanence and validity of nonbinary identities (i.e., "*It's Just a Phase*"). Lastly, participants explained how stereotypes have influenced outside recognition of their identities and their comfort in claiming a nonbinary title (i.e., *"Too Much" and "Not Enough": The Impact of Stereotypes).*

i. *"Looking Nonbinary"*

Participants described physical characteristics that were commonly associated with nonbinary identities. The chief descriptor that all twelve participants mentioned was "androgynous" or some variation thereof (e.g., "neutral"). However, this is not the only expectation that exists. As one interviewee, Paprika (Black/White, 24), put it, "…this one ideal that, especially the internet can try and put forth is like, y'know, thin and White and androgynous, and it's like, that's not the point of nonbinary at all." The mention of this specific overlap of race, style, and body type was mirrored by half the participants (six), bringing dynamics of privilege and power into the picture.

Many participants mentioned that their experiences with their gender assigned at birth were impactful, partly because nonbinary identities were often associated with AFAB individuals. This preconception is

well-known enough to possess its own terminology, which Alyx (Black/White, 18) labeled as the "Diet-Woman stereotype." In essence, this term is used to refer to the image of nonbinary people as "…women unwilling to admit to being women" (Carmen, Mexican/Jewish, 21). In describing the consequences of this stereotype, Alyx (Black/White, 18) explained that "…a lot of assigned-male-at-birth nonbinary people are either forcibly labeled as loudly gay or just gender non-conforming trans women." Additionally, nonbinary individuals perceived to be AMAB may find themselves excluded from spaces meant for minoritized genders. For instance, Carmen (Mexican/Jewish, 21) recounted:

> There have been a few times in college…I'm not aware of it happening outside. There was a sign that said some group like computer science meetup group or whatever for students with marginalized genders—women and nonbinary—but it's clear they meant just the women.

Besides bodily characteristics, participants agreed that some current depictions of nonbinary people include expectations for alternative style choices (e.g., dyed hair) and unorthodox interests (e.g., "cottage-core", frogs, etc.). Nonbinary people may be conceptualized as "weird" or "alien" in some cases. However, out of the participants who recognized this depiction, most were unbothered by it because of its perceived ingroup origin. Carmen (Mexican/Jewish, 21) weighed in:

> I don't think people actually mean that seriously. It's really more of a fun joke than a "you must abide by, you must cooperate with this" thing. The pronoun pins I have in my desk are frog-themed...There are people with common nouns for names. There are people who like frogs. This is not something I've ever felt was being imposed on me.

Moving away from visual stereotypes, half of the participants mentioned an expectation that nonbinary people only use they/them pronouns and other gender-neutral language. Alyx (Black/White, 18) described their own experience with pronouns:

> Well previously, even though I did prefer she/they, I give they/them just because like, [it] makes me seem like a proper nonbinary person versus a weird, pre-everything, trans-woman…It's good-old self-censorship of queer identities for the comfort of cishets.

This can be especially troublesome for individuals such as Hannan (Pakistani, 21), whose experience with gender is more fluid. Hannan demonstrated how they took issue with this limitation by elaborating:

> I don't want just they/them pronouns. And I don't like the idea of sticking like…It's not a third box. You know, it's outside of the gender binary [and] has limitless identities and explorations within that. Just that one word is not a third gender. It is an infinite amount of genders.

Overall, participants' experiences indicate that although nonbinary identities may not be as widely known as binary transgender identities, stereotypes about nonbinary identities do, in fact, exist. Many of these stereotypes concern visual characteristics, but an expectation for gender neutrality persists concerning pronouns and gendered language as well.

ii. *"It's Just a Phase"*

Contrasting with comments elucidating what a nonbinary person is expected to look like, participants also described experiences with having their gender identities dismissed as confusion or a phase. Multiple participants described the ways in which misunderstandings about nonbinary identities have led to this invalidation. For example, Axel (Black, 28) interpreted some of their experiences like this:

> I feel like it kind of plays into the fragile…skinny White person stereotype. Where it's like…well, you're obviously [nonbinary] because you want to be different. Because you're this skinny White girl that has nothing better to do, or like something like that.

Axel brought up multiple points within this reflection, including the misconception that a person who holds a nonbinary identity is doing so as a form of attention-seeking. In their experience, nonbinary identities are sometimes seen as a choice that people make to feel unique or receive special treatment.

Being exposed to this negative commentary has had detrimental effects on nonbinary individuals' acceptance of their own identities and comfort in disclosing their identities to others. When asked if they would like to come out to their family, one participant answered, "Yeah sorta. But…I'm afraid of what they would say because I don't think they understand it quite well. They'd probably be like, it's just a phase, or like, what are you saying? This doesn't make sense" (Drew, Chinese, 19).

iii. *"Too Much" and "Not Enough": The Impact of Stereotypes*

These preconceptions can have a significant effect on nonbinary POC's experiences of their genders. Demonstratively, one subject, Alex (Indian, 22), reflected, "…I'm like, not thin and like, not White. So, sometimes…I don't feel, like, nonbinary enough." Another participant, Stair (Black, 19), shed light on how expectations of androgyny and static identity led him to self-doubt. He illustrated:

> I kind of struggle with my own gender-queerness because…if I am neutral…I'm supposed to be this way all the time. Like, there's no fluctuation. There's not supposed to be an "Oh, I feel like a man right now." Like, that's wrong, or that's not acceptable. And so I just kind of struggled with my own nonbinary-ness.

Narrow expectations also impact nonbinary individuals' comfort in identifying with the larger transgender community. Transnormativity dictates few options for appropriate or proper transness that many nonbinary people do not find themselves fitting into. Aaron (Black, 20) explained that:

> There's some debate about being trans and especially…if you have not pursued any medical treatment—medical procedures, or like you haven't been diagnosed with gender dysphoria, you're not trans enough…That has mainly made me feel like, am I really trans enough? Because I haven't…done both of those things.

Not only have these expectations impacted the way some nonbinary individuals relate to their own identities, but they have a palpable effect on the way others treat nonconforming individuals. For example, one participant, Sally (Korean/White, 18), explained:

> When I've met other people and discussed with them…I feel like, just a little bit, they're always like, a little bit reserved to be fully—I don't want to say accepting—but fully realizing my identity…because I think I don't…fit into…a stereotype of what they would expect.

Not being recognized as nonbinary (or trans) and frequently being misgendered were experiences that were common to the participants.

b) *Research Question 2: The Intersectional Existence of Nonbinary People of Color*

One of the main goals of this study was to elaborate on the interaction between gender and racial/ethnic identities among nonbinary POC. Some of the findings from the first research question contribute to this discussion because participants' racial and gender identities often interacted and were difficult, if not impossible, to cleanly separate. Building on some of the previously presented ideas, two subthemes are described within this current theme. For the first subtheme, participants expressed difficulty finding spaces that integrated both their LGBTQ+ and cultural identities (i.e., *Mutually Exclusive Community Spaces)*. Secondly, participants contrasted their challenges by narrating some advantages that came from their unique identity combinations (i.e., *Joy, Connection, and Creation)*.

i. *Mutually Exclusive Community Spaces*

Participants come from various racial backgrounds, so no themes can be assigned to a specific ethnicity. However, all participants affirmed that there is a distinct lack of overlap between LGBTQ+ spaces and spaces geared toward communities of color. To an extreme, Paprika (Black/White, 24) described how while they were attending college, "[Queer Student Union] and [Black Student Union] were at the same time, so I had to choose: Do I want to be Black? Or, do I want to be queer?" Corresponding with previous research (Balsam et al., 2011), even if neither space explicitly bars members of specific groups, LGBTQ+ POC must navigate the potential for racism in queer spaces and homophobia/transphobia in communities of color. Hannan explained their struggle with balancing his LGBTQ+ and cultural identities that resulted from this lack of intersectional space:

> It did hurt for a very, very long time being queer and Pakistani—being queer and Muslim especially…I just, I didn't feel like I could be Muslim because I was queer…It really did feel for a long time that because my community didn't accept me, I couldn't be that. I couldn't be Muslim. I couldn't be Pakistani. But now…I'm at a much, much more stable place with being queer and Muslim together and I proudly exclaim that, and I let people know that…and a big reason for why I advocate for myself so much with those two labels intertwined is because I see it firsthand affecting other people who went through the same thing that I did.

Furthermore, participants recounted situations in which they were subjected to stereotypes of the race and gender combination that others perceived them to be. Aaron (Black, 20) recounted, "Lately, I've been told to not sound too aggressive…because I'm also socialized as a woman and I'm not out to people as nonbinary—so I'll be socialized as the angry Black woman". Drew (Chinese, 19) also elaborated on an experience with racialized gender stereotypes in their dating life:

> Yeah, I was sort of dating this guy for a few months and then, I don't know. He just made me very uncomfortable. I think he also put me on like, a pedestal and he was very idealizing me…I think in his mind, I was like, the Asian girl stereotype. I'm not, and whenever I would do or say things that broke the stereotype, he'd get kind of mad at me. Or, not mad, but like he tried to like, force me back into the stereotype.

Participants were still held to the expectations of the groups that others assigned them to, even if they did not identify as having membership in that group.

ii. *Joy, Connection, and Creation*

Although the challenges faced by nonbinary POC play a role in their experiences, participants demonstrated that membership in these minoritized communities also provided several benefits. Presenting in ways that made them happy, connecting with food, and creating spaces for themselves were examples of identified positives. These benefits can be seen in terms of gender, race, and the intersection between them.

Participants detailed several physical and non-physical components that helped them feel connected to their gender identities. In line with many transmasculine folks, for Stair (Black, 19), binding and packing (i.e., compressing breast tissue to make the chest appear flatter and wearing padding or a prosthesis at the front of the pants to give the appearance of a bulge, respectively) were sources of gender euphoria (i.e., positive feelings toward and connectedness to one's gender; Beischel et al., 2022). In another instance of gender joy, August (Black, 18), delighted in being able to manipulate their appearance with makeup. Alex (Indian, 22) described how their job was affirming for their gender:

> I work in a kitchen and that makes me feel a lot of gender euphoria…I work two positions…I'm a line cook and it's a lot

> of heavy lifting and using the oven, like the grill and stove, and I usually work with men in the back… I've gotten so much stronger just from working there so like, you know, physically, that gives me gender euphoria.

Participants also have various outlets for connecting to their racial/ethnic identities. Donovan (Filipino, 28) illustrates that food has helped to bridge the gap between them and their heritage:

> Food, food is always the thing. Food is the best. In any case, I love my mom's home cooking…She always makes me Filipino food, like exclusively a whole meal on my birthday now, since we've had those conversations in the past years, because I tell her, seems like you know, you and I are both kind of detached, but let's bring it back. I'm still waiting for the day where she teaches me how to cook her recipes.

Combining gender and race through an intersectional lens, participants also embrace their multifaceted identities to create their own spaces. August (Black, 18) explained:

> It takes one person to create those spaces, you know. Now, don't get me wrong, I'm not gonna invite myself to a place where I'm not welcome, but if I'm invited to that place because of one part of my identity, Imma just also embrace the other side. I'm not just gonna be like oh, you know I'm totally not that other part of my identity, you know. And Imma help create that safe space because there's probably other people in those spaces who relate to me and can definitely give those perspectives as well, and then that's how these wonderful spaces come to life.

IV. Discussion

These results reveal several concepts and implications worthy of further discussion; three will be explored here: *Stereotypes, Identity Conceptualization, and Identity Invalidation*; *Power, Privilege, and Intersectionality*; and *Practical and Societal Implications*.

a) *Stereotypes, Identity Conceptualization, and Identity Invalidation*

Even though "nonbinary" is a purposefully vague term meant to be inclusive of anyone who identifies with it, there appears to be a curious pigeon-holing of nonbinary individuals into an incredibly specific stereotype: thin, White, AFAB people with androgynous, alternative appearances. These results both support and contradict the idea that nonbinary individuals rely on binary gender stereotypes to conceptualize their identities (Garrison, 2018). Respondents have stated that a nonbinary identification is not *supposed* to have "a look", but simultaneously cited a carefully curated juxtaposition of feminine and masculine gender presentations as an indicator of in-group membership. This pattern replicates the findings of Barbee and Schrock (2019), who described the frequent mixing of traditionally feminine and masculine traits in nonbinary individuals' gender presentations.

Participants frequently reported expectations for pronoun usage, as well. Overwhelmingly, participants encountered the attitude that they/them pronouns are not only the standard choice for nonbinary individuals but the "proper" choice, as described by Alyx (Black/White, 18). Although they/them as a singular gender-neutral pronoun is still viewed as grammatically incorrect by some English speakers, the preference for they/them over neopronouns (e.g., "ze", "xe") may have to do with the perceived inclusivity and familiarity with the terms (Hekanaho, 2022). Simply put, they/them is already commonly used in the English language and can be used to refer to anyone regardless of gender.

Additionally, participants shared experiences with external invalidation and beliefs about identity impermanence. This preconception aligns with previous findings in Gazzola and Morrison's (2014) study, which identified a common belief that transgender people harbor confusion about their bodies, which can be remedied through therapy. Further investigation is needed to truly understand the impacts of the growing visibility of nonbinary identities in the greater social sphere. These interviews indicate a large variety of experiences within the community and a need for greater representation of this diversity.

The push and pull among trying to figure out one's identity, wanting to be oneself, not wanting to be held to gender stereotypes, and trying to avoid identity invalidation may cause a particular kind of minority stress. Societal expectations for behavior and labeling will influence an individual whether they want them to or not. The Western gender binary requires gender to be continuously achieved through one's appearance and behavior (aka "doing gender"; West & Zimmerman, 1987). Participants note that a nonbinary identity should not "look" a certain way, but they also express wanting to present in a way that their identities are validated – which requires the recognition of a "type" by other individuals. The androgyny associated with the nonbinary community may not necessarily come from an inherent desire for neutrality by community members, but instead stem from the limitations of the gender structure the individuals function within. These external pressures regarding presentation and pronoun usage from outside *and* within the nonbinary community itself are likely experienced as stressful, which has implications for the overall mental health of nonbinary and gender-diverse individuals. Societal preferences for a particular look or pronoun usage over another can cause further division and identity invalidation.

b) *Power, Privilege, and Intersectionality*

The distinctions between cis/trans and binary/nonbinary are not the only factors important to gender identity. It is also critical to discuss the various levels of power and privilege contributing to conformity and recognition within the nonbinary community. As some

participants in this study have expressed, one popular conception of nonbinary genders involves a specific visual stereotype: White, thin, and presumably AFAB. While individuals falling into these categories undoubtedly face many of the same challenges common to gender non-conforming people across the board, nonbinary people of color run into additional obstacles on the way to acceptance. For example, because many gender-affirming services are expensive and possibly not covered by insurance, transnormativity has built-in racial and class undertones that are more likely to impact transgender people of color (Johnson, 2016).

Research has also shown that specific differences in gendered attitudes exist between racial groups, but an understanding of these divergencies' discernable scope and impact is still limited (Carter et al., 2009; Cuervo et al., 2022; Kane, 2000). To this point, Cuervo and colleagues state that, "Ultimately, cultural values play a role in how family systems navigate experiences of disclosing sexual or gender identities, providing a framework for examining how values manifest individually within families and under the influence of broader systemic factors" (p.406). Individuals belonging to multiple minoritized identities may find representation more difficult because of the ways in which hierarchies within the margins are defined by one's proximity to the dominant groups (Fellows & Razack, 1998). From feeling like one's racial identity prevented them from being "nonbinary enough" to acknowledging that one's race would impact the way others perceived their gender, participants from Fellows and Razack's study could not separate this experience of intersectionality between race and gender (see also Coburn et al., 2023). An acknowledgment of privilege within the margin may feel like a threat of erasure to some, but the dismantlement of all systems of subordination (e.g., racial hierarchy) is necessary to uplift all gender-diverse people (Fellows & Razack, 1998).

It is important to note that many societies, which are based on binary models of gender, are oblivious to nonbinary and genderqueer identities. However, several cultures have distinct conceptions of gender diversity, such as two-spirit identities within Native American groups, Bakla within the Philippines, and Quariwarmi within Peru (Matsuno & Budge, 2017). Although nonbinary research often refers to these Indigenous genders as proof of the longstanding existence of nonbinary or suprabinary genders (i.e., an alternate term to describe additional genders besides male and female), it is important to recognize that the imposition of Western gender structures onto Indigenous peoples overshadows the unique concepts of gender that are inseparable from an Indigenous identity (Coburn et al., 2023; Mirandé, 2016; Robinson, 2020). These studies examine the interactions of race and gender specifically for a group of American individuals and, therefore, consider the responses within the context of the Western framework of LGBTQ+ identities.

Furthermore, in-depth exploration into the intersectional experiences of nonbinary people of color reveals that, in line with minority stress theory, the possession of a minoritized identity (or identities) leads to exposure to obstacles uncommon for social majority groups. However, these identities also allow for the opportunity for unique forms of connection and fulfillment. Participants' experiences with connecting with their identities—both gender and racial—demonstrate that there is joy and pleasure in being a person of color and a member of the LGBTQ+ community. In addition to investigating the adverse outcomes of stress, by focusing on the positive outcomes of minority affiliation, it becomes possible to identify factors contributing to individual and community resilience, like connection to extrafamilial groups and giving back to supportive communities (Goffnett et al., 2022; Meyer, 2015; Scheadler et al., 2023). Identifying these factors will improve individual coping strategies and inform how public policy addresses the social issues that perpetuate the stressors in the first place (Meyer, 2015).

c) Practical and Societal Implications

Scholars and practitioners have already begun to identify actionable steps that can be taken to support transgender and nonbinary people in general (especially youth). Some interventions would require more significant systemic shifts and institutional support, such as the proliferation of gender-neutral restrooms, greater accessibility to medical care, and gender-diverse education in schools (Shah et al., 2022; Tebbe & Budge, 2022). However, Shah and colleagues note that other action plans may be implemented freely by individuals, such as social acceptance (in the form of pronoun and chosen name usage) and active listening. Mental health professionals working with transgender and gender-diverse individuals may support their clients by encouraging gender exploration, decentralizing linear, transnormative gender identity narratives, and considering external factors like geographical region and local attitudes (Scott & Cornelius-White, 2022; Coburn et al., 2023). Beischel and colleagues (2022) capture the sentiment well, reminding us that, "…the fight for transgender rights can be framed not only as reductions in gender-related harm, but also more equitable access to gender-related joy and pleasure" (p. 290).

V. Limitations and Conclusion

Nonbinary people of color possess a unique intersection of identities that provides opportunities for important insights into both gender and race research. As the literature on transgender topics continues to

expand, it is vital that researchers acknowledge and actively investigate gender identities outside of the traditional binary. This study aimed to understand the lived experiences of the participants as they pertained to two main research questions: 1) What expectations and preconceptions surround nonbinary identities and what are their impacts on both conforming and nonconforming individuals, and 2) What kind of influence does culture have on gender development for nonbinary individuals of color?

Due to the nature of this study, certain limitations and constraints must be considered when interpreting the results. First and foremost, the experiences of this qualitative sample may not generalize to all gender-diverse people of color. The participants in this study were volunteers who were contacted through a collegiate research system and internet outreach efforts. As a result, the sample is young and highly educated. Additionally, the sample does not represent the full spectrum of gender identities, racial/ethnic backgrounds, and existing combinations of these positions. In particular, this study was not able to include Native American/Indigenous, Middle Eastern, nor Native Hawaiian and Pacific Islander participants, among other ethnic groups. A majority of participants were AFAB, and no participants indicated that they were intersex. While this study focused on aspects of gender identity and racial/ethnic background, it has been made clear through conversations with participants that factors such as socioeconomic status, religious beliefs, educational level, family structure, body size, etc., all contribute to identity exploration and development in these domains. Furthermore, this study only investigated the experiences that nonbinary POC themselves have had with nonbinary stereotypes, but stereotypes may be known and perpetuated by people whose identities fall outside of the categories to which the stereotypes refer. Future research is needed to investigate the perceptions of binary transgender and cisgender individuals to paint a more complete picture of the cultural attitudes surrounding nonbinary identities. Lastly, the research team acknowledges the inevitable influence of researcher bias. However, the team has been purposeful in establishing reflexive practices and building conscious positionalities to mitigate the distortion of the findings as much as possible.

Despite these limitations and constraints, the study results demonstrate that the social and legal separation of people into binary gender categories is outdated, but the diversity of reported experiences affirms that "nonbinary" is not simply a new homogenous third gender. Additionally, the recognition of transgender identities as a purely medical phenomenon is reductive and harmful to those not pursuing transition in a fashion considered to be typical. Further exploration is warranted to determine how to better integrate LGBTQ+ and racial/ethnic spaces; however, the intersectional experiences of nonbinary POC span much further beyond race, gender, and sexuality. Within this sample alone, participants elaborated on additional avenues of influence, such as body size and shape, religious affiliation, and neurodiversity. The voices of these participants contribute to the growing body of research concerning all these topics.

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Xavante Food Practices, Environmental Challenges and Food Sovereignty

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Abstract- This article results from the master's thesis "Food practices and food sovereignty in the Xavante Indigenous Land: challenges and perspectives". The objective was to understand food practices, especially those considered traditional, such as hunting and gathering; the process of food transition, with the changes in eating habits, both in the way of obtaining food, and the food itself, and its consequences, discussing the possibilities of enabling a scenario of security and food sovereignty. The methodology used was documentary analysis, and an interview with the head of the village Etenhiritipá, the study site, to validate and complement the data. The most relevant points of discussion on the relationship between food practices and the environment will be presented, considering the perspective of the anthropologist Tim Ingold of the engagement and relationship of the subjects with their environment, challenges, and the complex context in which the Xavante find themselves.

Keywords: indigenous peoples; land demarcation; dwelling perspective; food transition.

GJHSS-C Classification: FOR Code: 160104

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Xavante Food Practices, Environmental Challenges and Food Sovereignty

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Abstract- **This article results from the master's thesis "Food practices and food sovereignty in the Xavante Indigenous Land: challenges and perspectives". The objective was to understand food practices, especially those considered traditional, such as hunting and gathering; the process of food transition, with the changes in eating habits, both in the way of obtaining food, and the food itself, and its consequences, discussing the possibilities of enabling a scenario of security and food sovereignty. The methodology used was documentary analysis, and an interview with the head of the village Etenhiritipá, the study site, to validate and complement the data. The most relevant points of discussion on the relationship between food practices and the environment will be presented, considering the perspective of the anthropologist Tim Ingold of the engagement and relationship of the subjects with their environment, challenges, and the complex context in which the Xavante find themselves.**

Keywords: indigenous peoples; land demarcation; dwelling perspective; food transition.

I. Introduction

The present article aims to understand the feeding of the Xavante people of Aldeia Etenhiritipá, Terra Indígena Pimentel Barbosa, in the State of Mato Grosso, Brazil, through the perspective of the group's relationship with its environment.

Traditionally hunter-gatherers and with spatial mobility, Xavante eating habits began to change after the intensification of contact with non-indigenous people, from the mid-1940s. Therefore, the current context in which they find themselves is the result of years of contact and the sum of facts that have happened over the years, including the demarcation of land; the advance of the agricultural frontier in the region; and access to new technologies and new markets, especially for the younger generations. The main consequences include the settlement and consequent sedentarization; the reduction of available natural goods, including species for gathering and fauna for hunting; the consumption of industrialized food, malnutrition, and hunger, culminating in a scenario of insecurity and no food sovereignty.

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In other words, the Xavante have not secured their right to healthy and culturally appropriate food, nor the possibility of defining their own food and production systems, respecting their livelihoods and livelihoods. The factors mentioned interfere with and limit their adaptation possibilities.

Therefore, three objectives supported the analysis and discussion: to understand food practices through the relationships between the subjects and the environment; to analyze the transition process and its implications; and to discuss the process of food transition and their ways of life in the current scenario, considering the environment as crucial for survival Xavante."

From the link between food and territory, it is possible to understand the multiplicity of food traditions, which must be known to subsidize the proposition of strategies aimed at the viability of food security and sovereignty. In this logic, anthropologist Tim Ingold's theory proved relevant to the construction of the discussion, since it presents the environment as a complex system, far beyond its biotic and abiotic gradients, maintaining a holistic view of what is intended to be studied. Moreover, it works by revalorizing what is called "traditional knowledge" not only based on what human groups "think" about the natural and social environment, but mainly, based on what they do in it.

The case of the Xavante is valuable because it has significant implications for understanding the food dynamics of indigenous peoples in Brazil in a broader context. The remarkable internal heterogeneity of a group that results in a food mosaic is far from random. It is the result of the history of contact and interaction with non-indigenous people, especially socio-environmental pressures and the introduction of a western and industrialized diet, which produces particular configurations.

a) Methodology

The initial methodology included field techniques, but due to the COVID-19 pandemic, which made it impossible to enter the village during the years 2020 and 2021, the initial project was adapted, relying only on the methodology of documentary analysis, also known as documentary research.

This methodology includes bibliographic analysis, or literature review. Documents such as bibliographic reviews, historiographical research, and secondary data were used. The documents were

organized and interpreted according to the proposed objective, using instruments for the generation of new information.

In addition, an interview was conducted with the chief of the village *Etenhiritipá,* Jurandir *Siridiwê* Xavante, in July 2022. The focus of the interview was to discuss, based on the information obtained through documentary analysis, which traditional eating practices were still present and to what extent. That is, the data were validated and complemented by the chief.

From this, it was possible to establish a concrete relationship between food and the environment, paying attention to the process of building perceptions, attitudes, and social representations of the group about the practices and the process of food transition, considering the relationship with the territory. The discussion culminates in the analysis of the challenges and prospects of enabling the security and food sovereignty of the group through the context in which they are and all their complexities.

II. The *A'uwẽ Uptabi:* A Brief Contextualization

The contact of the Xavante, self-appointed *A'uwẽ uptabi*[1], with the non-indigenous, occurred at different times, determining different migratory fronts. This study refers to the group that migrated during the nineteenth century from the State of Goiás and began to live in the State of Mato Grosso, after the crossings of the Araguaia, Cristalino, and Mortes rivers in the region of Wedezé (Maybury-Lewis, 1984; Lachnitt, 1987; Coimbra Jr. *et al.,* 2002; ISA, 2010).

The first official contact with non-indigenous people occurred in 1946. A group led by chief *Apowẽ* agreed to establish relations with the team of the then Indian Protection Service *(Serviço de Proteção ao Índio,* in the original), headed by Sertanist Francisco Meirelles, who acted according to the direct guidance of Marechal Rondon himself (Silva, 1992; Coimbra Jr., Welch, 2014). The interest in the *A'uwẽ uptabi* was associated with the state campaign for the opening of the interior of the country, and the process of colonization for occupation of "empty" spaces and conquest of territories, the so-called "March to the West" *(Marcha para o Oeste,* in the original) (Silva, 1992).

The Xavante resisted contact until the mid-1960s. Exhausted by disease, hunger, and conflict, "pacification" was, in fact, consumed by the Brazilian State (Silva, 1992; Coimbra Jr., Welch, 2014). This is the period of contact in which relations with Brazilian society intensified and materialized. The first years following the so-called "pacification" were arduous and they began to experience territorial confinement and constant contact with the surrounding society." According to Silva (1992), the "micro universe" came to be characterized by routine coexistence with indigenous posts and missions, defining the interethnic relations that they began to experience.

In general, the Xavante were a people with spatial mobility and their economy was sustained through hunting and gathering (Maybury-Lewis, 1984; Coimbra Jr. *et al.,* 2002; ISA, 2010; Welch *et al.,* 2013). Before the intensification of agriculture in recent decades, the *A'uwẽ uptabi*, besides hunting and gathering, had a small agricultural production. They used for the subsistence gardens the best lands that were located in gallery forests. Fishing has also intensified in recent decades, due to the intermediary of the then Indian Protection Service in the 1950s, responsible for providing nylon lines and hooks (Silva, 2008).

As a consequence of contact and later land demarcation, agricultural activities intensified through the efforts of the indigenist agents to persuade the Xavante to devote themselves more to agriculture and gradually abandon their nomadic habits. The assumption, according to Flowers (2014), was to contain the group within a more limited territory.

Prior to the settlement and intensification of agriculture, the Xavante seasonally organizing their system of obtaining food, including a diversity of wild products, as well as limited agricultural production. According to Flowers (2014), this strategy is similar to that of many indigenous peoples in the past, suggesting that, from the moment human groups become dependent on agriculture based on cultivation, mainly grain, are subject to some pressure to intensify production in order to ensure sufficient provisions for the whole year.

The intensification of agriculture brought changes in everyday life and altered agricultural practices, causing the abandonment of many traditional crops, with the consequent disappearance of native seeds, and the introduction of new crops, such as cassava and banana. These introduced crops have acquired an important role in the daily food of the Xavante. Moreover, in the late 1970s, the National Indigenous People Foundation *(Fundação Nacional dos Povos Indígenas,* in the original), which will be referred here as FUNAI, developed the so-called "Xavante Project", which introduced mechanized cultivation of white rice on a large scale in the Xavante lands.

It is important to emphasize that, unlike the 1950s, the Xavante no longer had the same freedom to circulate in their territory, because in the 1970s they were already confined to a small fraction of demarcated land, surrounded by agricultural and livestock farms (Flowers, 2014). That is, the limitations imposed by the surrounding society were increasingly accentuated.

The result was an even greater imbalance in subsistence and diet patterns, transforming a non-

[1] The true people.

nutritious variety of rice into the basis of the food diet (Graham, 1995; ISA, 2017; Reichardt, Garavello, 2017).

During the 1990s, according to Santos *et al.* (2014), transformations in subsistence and food were further stimulated by the new economic resources available and the political ties developed. The Xavante now have sources of income that they did not have in previous decades and much of this money is destined for the purchase of industrialized food (Santos *et al.,* 2014).

Moreover, even with the demarcation of indigenous lands, due to the flatter relief, the good physical characteristics of the soil and the low price of land compared to the south and southeast of Brazil, large-scale production becomes more competitive in the cerrado in relation to small-scale production, resulting in the advance of the agricultural frontier. According to Leite (2007), in many indigenous areas it is no longer possible to hunt, collect, fish or even make use of agriculture, due to the scarcity of available territory. In addition to the depletion of natural resources, there are other factors that threaten the food security of indigenous peoples, such as disputes over the proper ownership of land and natural assets located on these lands, resulting in a series of conflicts with farmers, miners, loggers, hunters and fishermen.

The long history of contact with non-indigenous people was responsible for the reduction of their territories, the instability of the guarantee of their rights, and the transformation of their productive principles. This structure led to the situation of compromising food security and sovereignty, as the group became unable to meet their food needs through their traditional activities, depending on a monetary income often insufficient. Finally, it changed the way the Xavante relate to their environment, forcing them to adapt to the new reality that involved them.

The *A'uwẽ uptabi* eating habits are peculiar and intertwine with a whole cultural contingent, reproduced and reworked between generations, and directly related to a dynamic of the territory's use. It is through their food practices that the Xavante express who they are in the world, being also central in this determination.

III. The Anthropological Contribution: The Perspective of Tim Ingold

For the british anthropologist Timothy Ingold, better known as Tim Ingold, anthropology should be thought of as a speculative discipline that sees beyond the possibilities and potentialities of human beings. Thus, one of its main tasks is to demonstrate that there are different ways of looking at things, breaking with the more classical view, considering that it should not be only an empirical discipline, *"anthropology, in my definition, is philosophy with the people in"* (Ingold, 2018, p. 4).

The so-called dwelling perspective deals with the immersion of subjects in a world that continuously arises around, and its multiple constituents acquire meaning through experiences, in a regular pattern of life activity. Unlike the western notion of territory as a kind of "blank canvas" for man, the environment is the world as it exists and that is gaining meaning in relation to the subject/group, being an inescapable condition of existence.

In short, the way one perceives the world is a result of the way the subject relates to this same world, and vice versa. That is, the way one inhabits a place is directly related to the way one perceives that place. So what we call "ways of life" should be understood literally, not as a body of received tradition, delivered independently and anticipated to its promulgation in the world, but as a creative and improvised process of finding a way through, in a world of relationships and processes that are always unfolding.

For the *A'uwẽ uptabi* the spaces within their territory are represented by the idea of the spaces of *Ró.* These spaces are the representation of their world and place where interactions with the environment occur (Lachnitt, 1987; Gomide, 2011). In summary, this is a concentric complex to which value is attributed and where food, culture, rest, reproduction, among other needs are met (Gomide, 2011; Welch et al., 2013). The interior is the village with the yard, and soon after the swiddens, followed by the cerrados, with the plants, animals and with the spirits.

There is also the orientation of the *Sarewa,* which is the people who do not let themselves be seen, to continue building the world. It is these invisible beings who are the owners of the natural goods necessary for the survival of the *A'uwẽ uptabi.* According to Silva (2016), they are the owners of animals, plants, rivers and the cerrado. According to the elder Cidanere[2] reported to Silva (2016), the Sarewa live in the mountains, but are traveling all over Ró. He also states that only older people have the power to see and learn from the *Sarewa* (Silva, 2016).

Also according to reports from the Xavante, the *Sarewa* protect the hunters *A'uwẽ uptabi*., being able to transform into animals during the night, which is why hunters do not hunt at night, in respect of the *Sarewa.* It is necessary to ask permission from them, and it is during dreams that some Xavante manage to converse with these beings (Gomide, 2011). In addition, it is believed that all the rituals and first chants came from

[2] One of the oldest elders and respected by the Xavante of Pimentel Barbosa, explained to Silva about *Sarewa* in a *Warã* held at sunset on June 29, 2005 in the village *Wederã* (Silva, 2016).

the *Sarewa* spirit-people, who invented what did not exist (Santos, 2020).

This complexity of relationships built in an environment, should be treated as the indivisible totality that is the system of development of a given group. Therefore, the way one perceives a world is a result of the way one relates to this same world. In view of this, the way the world is inhabited would not be innate or merely acquired, on the contrary, the skills of this inhabit would be cultivated and incorporated into the subject through the practice and engagement of him in that environment (Ingold, 2008).

Knowledge, therefore, is a reflection of certain elements of the environment that historically are central in a particular experience of the subjects in the landscape (Ingold, 2000). In the specific case of the Xavante, hunting and gathering activities assume this centrality in the definition of their ways of life, as well as in the ways of experiencing the landscape and elaborating a regime of knowledge linked to this experience. There is, then, a natural direction for certain aspects, the result of this engagement with the environment (Prado, Murrieta, 2017).

The ingoldian debate on the relations between nature and culture presupposes an indivisibility between organism and environment, giving rise to a monistic vision, advocating action and consciousness in terms of a continuous process of life (Silva, 2011). Thus, his ontology offers an alternative to the "western" worldview, questioning the representations that dissociate the organic condition of the human being and his potential as an active, imaginative and intentional subject (Ingold, 1986, 1999, 2000).

For Ingold (2010, p. 7), "it is through a process of enskilment[3], not enculturation, that each generation reaches and surpasses the wisdom of its predecessors. This leads me to conclude that, in the growth of human knowledge, the contribution that each generation gives to the next is not an accumulated supply of representations, but an education of attention".

Relations are not unidirectional, they are mutual, and there is a mutual relationship between physical space and subject (Carvalho, Steil, 2013). Building is a continuous process and happens while inhabiting the environment. It does not begin with a pre-formed plan and ends as a finished artifact, the "final form" is just a fleeting moment in life of any characteristic, combined with a human purpose, center of a stream of intentional activities (Ingold, 2000, 2010, 2011).

"(...) the world is not a determined state of affairs but a "going on", which is constantly being furthered by agents within it. And these agents are not only human, but include other organisms as well. The world is not "there" for us or anyone else to represent or to fail to represent; the world is come into being through our activities [...] we cannot exclusively privilege us human beings with this world-producing ef- fort –for the world is coming into being through the activities of all living agencies. At the root of the argument, then, is a question about our understanding of human uniqueness" (Ingold, 1990, p. 155).

Hunter-gatherer peoples do not interact with their environment as with an external world to be conceptually dominated or symbolically appropriate. For Ingold (2000), the way these groups exist cannot be considered a representation of their worldview, their cultural tradition, or their folklore. They are ways in which subjects engage with their environment, and how, from this involvement, perceive their environment and develop relationships based on this dwelling, which leads to the construction of knowledge associated with this system of perceptions and relationships, creating a "reality" in particular.

The radicalism proposed by Ingold lies in the understanding of these distinct flows, lines and configurations that life assumes in its various material forms. Furthermore, by questioning the relations between humans and nonhumans, subjects and environment, he puts in question a re-evaluation of the anthropological concepts themselves, proposing to overcome their dualisms, opening new possibilities, instigating to go beyond the crystallized traditions, place the subject immersed in an environment, thus inaugurating an anthropology of life.

IV. The Importance and Relationship between Hunting, Gathering and Territory for Xavante Cosmology

The *A'uwẽ uptabi* establish an order to describe what they call *Ró,* meaning *"cerrados,* worlds, our land, everything" (Gomide, 2011, p. 117). As mentioned earlier, *Ró* spaces are the representation of his world, conceived through concentric circles, with fluid and continuous limits (Gomide, 2011).

According to Gomide (2011), *Ró* is not only a source of resources. It must be understood as the spatialization of relations between the different subjects that inhabit the cosmos. "The cerrados are conceived by the Xavante as an indispensable condition for the exercise of their way of life". In this logic, the importance of the cerrados in the Xavante culture lies in material and symbolic appropriation, whose interaction is responsible for physical and cultural survival. Thus, the set of spaces that shape the territory express the survival needs of the group, understood in a broad sense and not simply material. The territory is physical-material, symbolic, economic and, mainly, political.

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[3] Proposes that learning is inseparable from doing and place.

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The occupation and use of the territory is the result of a context of non-linear and heterogeneous historical transformations, SUCH AS MIGRATION AND LAND USE CHANGE, producing antagonistic forms of territorialization, applied in different parts of the national political space and at various moments of history (Pacheco de Oliveira, 2016). In the case of indigenous peoples, the very condition of indigenous "necessarily presupposes a trajectory (which is historical and determined by multiple factors) and an origin (which is a primary, individual experience, but which is also translated into collective knowledge and narratives to which it is coupled). (...) It is precisely the elaboration of utopias (religious, moral, political) that allows the overcoming of the contradiction between the historical objectives and the feeling of loyalty to the origins" (Pacheco de Oliveira, 2016, p. 215-217).

According to Pacheco de Oliveira (1993 *apud* Pacheco de Oliveira, 2016, p. 203), the notion of territorialization is defined as "(...) a process of social reorganization involving: 1) the creation of a new socio-cultural unit by establishing a differentiating ethnic identity; 2) the establishment of specialized political mechanisms; 3) the redefinition of social control over environmental resources; and 4) the re-elaboration of culture and the relationship with the past". The territorialization process is precisely the movement by which, in this case, the *A'uwẽ uptabi,* comes to become an organized collectivity, formulating its own identity, instituting decision-making mechanisms and representation, and restructuring their cultural forms.

By organizing for the right to land, the Xavante are not only fighting for land demarcation, to which they are entitled, but above all, they are enforcing their rights to a way of life in their space of reproduction, their autonomy and existence as *A'uwẽ uptabi*, collective subject, transforming the political struggle in struggle for territory.

The intense devastation of the cerrados has caused numerous socio-environmental impacts on indigenous lands, and especially on the Xavante culture, which, as seen, has a fundamental relationship with its territory (Gomide, 2011). By having their basic rights assured, such as the right to land and proper food, the Xavante guarantee greater autonomy to adapt their ways of life, including their eating habits, according to their own needs, and not by the conditions imposed.

Ró is the result of the involvement of the subjects with their territory, which results in a series of representations that make possible the existence of the Xavante people. The way they organize and relate to this and in this space demonstrates that the *Ró* is composed of ethical, spiritual, symbolic, affective values, in addition to materials. The experiences and relations established incorporeally with the place they inhabit are clearly presented in their spatial and social conformation. It is from these values that they perceive and establish the spaces of *Ró,* unlimited, even with the demarcation of lands.

Considering these subjects immersed in the environment, food is linked to the spaces of *Ró*. In the case of game meat, it is not only a food to be consumed and meet the physiological needs of these subjects. In the monograph[4] of the author of this article, in one of the interviews, the interviewee pointed out that “the fish has no spiritual value”. In this same interview, the interviewee highlighted the importance of game meat for his people, “it has to be game meat to have courage. (...) The hunt brings the soul of *Ró”.*

According to the chief Jurandir, a great hunter usually dreams and, from the dream, can indicate the place of hunting. According to him, for a good sensitivity in the dream, the best meat to be consumed is the jawbone *(Tayassu pecari),* much appreciated by the Xavante. Therefore, the dream is the great guide of the world *A'uwẽ uptabi.* His decisions, his cosmology, his knowledge and his technologies are extremely intuitive and related to his subconscious. According to the chief, the meaning of life Xavante is the dream, being associated with the consumption of game meat.

The *Warã* is a daily space that happens every evening and dawn. Men come together to exchange dreams, everyday experiences and action strategies. Important decisions are not usually made in the spaces that happen at dusk, but at dawn, after the Xavante sleep and dream. This will give them enough clarity to make the right decision.

The dream, in this context, is also part of the process of formation of a subject, since the dream is a truth that feels, communicates and recovers the memory of the creation of the world. The foundation of life and the sense of the way in the world are told from the dream, which feeds the spirit of the creation of the Xavante world.

Furthermore, according to Ingold (2000), hunting represents a relationship based on the principle of trust between hunter and prey, consisting of a combination of autonomy and dependence on hunter-gatherer societies such as the Xavante. For the pastoral system, this would be replaced by a relationship of dominance, represented by domestication. They are different ways of relating to other animals and, according to Ingold (2000), hunting would be a way of knowing them, because the hunter seeks revelation, not the control of the animal. Thus, hunting performance establishes a maximum equality relationship between hunter and prey.

Another aspect associated with hunting is its relation to rituals. The traditional Xavante marriage

[4] Study of Food Sovereignty within the perspective of the 2030/ONU Agenda on Xavante Indigenous Land.

implies the hunting of animals to consolidate the relations of marriages between clans. The settlement and the reduction of hunting fauna influence directly, because it is through hunting that the son-in-law shows the community and establishes the marriage, as well as other social and family prestige. With the new conditions, the rituals need to be adapted, and much tradition ends up being lost in this process.

To meet their food needs, according to the chief Jurandir, the Xavante currently breed some birds for consumption, something that is not common in traditionally hunter-gatherer peoples, given the kind of principle and relationship they establish with other animals. In addition, there have been a number of other transformations.

According to the chief, hunting with fire is the fastest way to hunt, and whatever comes is interesting to them. It is also related to the end of a cycle, the end of the period of seclusion of the Xavante boys, occurring every four or five years. That is, there is a ritualistic value. However, it is a great challenge to hunt with the use of fire in current times, because it is seen with bad eyes by non-indigenous people, who do not know that the Xavante people have great knowledge about the technique.

According to Ingold (2000), the idea of conservation imposed by Western science imposes a degree of detachment from the environment incompatible with the ways of life of hunter-gatherers, extremely involved with the environment they inhabit, which is essential to carry out their activities. Here it is important to point out that it is not intended to romanticize the relations between native peoples and nature, but to indicate that these peoples have their own knowledge, fruit of another way of relating to the environment, experience and experimentation over many years, being as valid as scientific knowledge (Cunha, 2009).

In addition to the use of fire, the Xavante also used other instruments for hunting, such as the *bordunas*[5] for aid in the attack on prey (Pereira, 2010). Currently, hunting occurs mostly with the use of firearms[6] and occasionally can occur with the use of archery. The *bordunas,* according to the chief's own words, "became a museum object". They are still used with a mystical and cultural character, and in some cases, assist in locomotion, but no longer as weapons to hunt animals.

In relation to gathering, as well as hunting, it is a traditional and central practice in the world *A'uwẽ uptabi.* Through the collection the group relates to its territory, because the activity allows them to transit through the spaces, know the various forms of life that inhabit it, and connect with the elements present. It is a fundamental activity for their way of life, as well as being an important source of food. In the chief's words, "the supermarket is in the cerrado".

The food items collected complement the food. According to the chief Jurandir, it is the fruits collected that "save" during hunting expeditions. In the study conducted in 2018 by the researcher of this article, the small portion of traditional foods (20%) was composed mostly of fruits collected (Santos, Garavello, Reichardt, 2021). According to Silva (2008), the collection did not have the same importance as a food base. Women did not perform it often or only when there was no other source of food. As noted by Santos, Garavello, Reichardt (2021), the consumption of fruits collected was low, and may be equivalent to the only meal of the day, if inevitable, contributing to the necessary energy intake.

With the COVID-19 pandemic, there was a certain strengthening of this practice, as a crucial means to meet food needs, as reported by the chief. Moreover, there is currently an initiative to obtain income through certain items collected, such as Baru nuts. According to the chief, the amount of chestnuts collected is very large, allowing a destination for the remainder, able to contribute financially to the village.

Although there are fluctuations in the consumption of the items collected, and may be more or less significant in the diet, collection is, to some extent, a recurring activity and of great importance, since traditionally hunter-gatherer peoples, such as the Xavante, do not consume meat daily. In addition, the collection activity is the most guaranteed, because it does not require management and because it fulfills an ecological role in the local landscape.

Actions such as the collection of seeds, fruits and use of other available natural resources, without harming the demand of the group itself, are fundamental in allowing a new meaning in the relationship with the environment, as well as strengthening the link with the territory, also enabling a way to obtain financial resources other than those from government aid or salaries.

There are several transformations in their food practices and, consequently, in their ways of life, showing the urgency to seek alternatives to mitigate a situation of insecurity and not food sovereignty. According to Murrieta (1998, p. 130), "the emphasis on

[5] Indigenous weapon of attack, defense or hunting, usually cylindrical and elongated. It is made of hardwood and can also be used as a cane, as a paddle (the spatulate) and piercing object (the pointed). Its surface was smoothed by means of a pointed stone, which according to Pereira (2010, p. 40), "(...) was sharpened and subsequently fixed by means of strands of vegetable fibers on a wooden handle of Taquara, which fit comfortably in the palm of the hand, becoming an arrow. It was ornamented with animal feathers, glued by means of beeswax" (translation of the author of the present article).

[6] The use of firearms is seen as favorable by the Xavante, since the expansion of the agricultural frontier and increased population density of human beings in the region made, in the words of Chief Jurandir, "the animals were smarter, uniting the useful to the pleasant" facilitating hunting in the new environmental conditions.

eating habits, and their nutritional implications and on interactions with intense political and economic changes, can produce the perfect connection between different factors impacting biological survival and the social representation of societies (...)"[7].

Food reveals from the economy of a society, to the nature of social, political, religious representations etc. Moral criteria, the organization of everyday life, the kinship system, religious taboos, among other aspects, related to eating practices. That is, it articulates a series of systems in each social reality, configuring certain ways of life. Therefore, the relationship with food and, consequently, the territory, is fundamental for the Xavante to establish and reproduce their patterns of life, cosmology and exist while *A'uwẽ uptabi.*

V. Challenges and Perspectives

According to chief Jurandir, "when a Xavante leaves, it is already understood that he will hunt, fish or collect. The inhabitation of Xavante is fundamental to understand their ways of life, eating habits and relationships, connected to each other in the flows of the spaces of *Ró.*

In this sense, as perspectives, actions aimed at strengthening practices considered traditional, LIKE GATHERING AND HUNTING, can contribute to the dynamics of the Xavante, through the maintenance of aspects of food culture still present and organized, allowing greater independence for possible adaptations in their living standards.

1. The food transition is inherent in the processes of industrialization and urbanization that regulate access to food, having assumed a planetary scale, and in the case of indigenous peoples, with the increase of contact with the surrounding and globalized society, it is inevitable (Garnelo, Welch, 2009). Food habits such as hunting and gathering combine with the consumption of industrialized foods and bought in markets, to a greater or lesser extent, depending on a number of factors, such as the availability of natural goods in the environment.
2. However, as Garnelo and Welch (2009) point out, the feeding of indigenous peoples should be seen as a dimension of culture in dynamic interaction with the environment, the economy, and the values and beliefs of each group. Thus, the impoverishment of indigenous diets and the influx of a restricted group of industrialized foods also implies a risk to the socio-cultural diversity of indigenous Brazil.
3. Whereas hunting and gathering practices play an important role in Xavante lifestyles and cosmology, having an influence on their dreams and, consequently, on their material reality, it is essential to invest in actions to strengthen these practices, linked to the use of territory, and the Xavante themselves have this awareness.

According to the village chief, the Xavante are betting on the marketing of some products, such as cassava flour and baru chestnut. In the case of flour, a contract was signed with the Municipality of Canarana, municipality of the state of Mato Grosso, for the sale of municipal school lunch. As for baru chestnut, there is the interest of companies for the production of cosmetics, in addition to their medicinal potential, which aroused the interest of the Butantan Institute, a center for scientific research and production of immunobiologicals, adjacent to the University City campus of the University of São Paulo, Brazil.

These are examples of opportunities that can provide greater financial autonomy, as well as strengthening the bond of *A'uwẽ uptabi* with their territory, giving special emphasis to women who, according to chief Jurandir, are usually the most involved in initiatives such as those mentioned.

It is important to mention that women are usually responsible for preparing meals, being in a closer contact with food, and are increasingly involved and participing in social movements and political life, playing a crucial role in the struggle for the rights of so-called native peoples.

RETURNING TO THE ACTIONS, an important attempt to be mentioned is the *Abahi Tebrezê* project[8] started in 2010, whose objective was to strengthen culture, food and nutritional security and territorial management of the Xavante people in Pimentel Barbosa, through the revitalization of traditional potato production. Initially conducted by men, in 2017 women decided to take the lead in the actions, arguing that they are the most interested in the recovery of traditional food and the transfer of knowledge to girls and boys in the community.

The project was inspired by another project called *Dasa Uptabi*[9]*,* and among its main objectives were the exchange of knowledge through the decision of the women themselves involved, through craft workshops or exchange with other peoples. In addition to focusing on knowledge and the revitalization of traditional food, it had a broader educational character, involving the strengthening of culture, the management of the territory, and greater awareness of the rights of indigenous women of the Xavante community.

[7] Translation of the author of the present article.

[8] The project was supported by FUNAI.

[9] The traditional Xavante potatoes, called *Dasa Uptabi,* have low glycemic index and because they present this nutritional relevance, as well as cultural, were the subject of a project that aimed at rescuing the practice of their collection, being one of the results *"Daza Uptabi:* Back to Roots", published in 2007. These tubers are still collected, apparently for purposes of variation in their diet, since sweet cassava came to occupy an important place in the diet as an energy source.

The application of projects like these are characterized as an intercultural attempt to adapt amid the intense transformations suffered throughout the history of contact with capitalist society, whose intentions are fundamentally colonizing. However, it should be noted that the consequences of such actions are unknown in the long term. However, it is essential to highlight their importance in the present, either by encouraging the protagonism of subjects who have been historically violated and silenced, or by trying to establish a dialogue between traditional knowledge and scientific knowledge, the constant exercise of respect for otherness.

A great challenge mentioned by the chief is to be able to maintain enough for internal consumption, focusing on the commercialization of the surplus. In other words, there is a concern about internal supply, because the most important thing, after all, is that the group itself can have a good diet. Thus, it is essential that actions aimed at marketing do not harm the consumption of the village. Still according to the chief, the Xavante of *Etenhiritipá* do not aim at anything on a large scale, wanting only to take advantage of the natural goods available in the territory, or in the cacique's words, "what they have of natural, and not have plants that are not from there".

Thus, a number of factors should be considered when thinking about actions for the viability of food security and sovereignty. In any case, food participates in a series of issues related to social and cultural identities, constituted in privileged spaces of action, construction of perceptions and knowledge, through which the group marks its distinction, is recognized and is recognized. Therefore, respect for *A'uwẽ uptabi* identity, considering actions that have meaning in your world/ reality, is a fundamental party point.

VI. Conclusion

Given what has been presented, it is possible to observe that the scope of recent environmental and socioeconomic transformations on the Xavante people is broad, and the reflexes of this set of changes on food practices and their ways of life are significant.

There is instability in guaranteeing their basic rights, such as the right to physical and economic access, uninterrupted, to adequate and healthy food or the means to obtain these foods, without compromising resources to obtain other fundamental rights, as health and education, as provided for in articles 6 and 227 of the Brazilian Federal Constitution, defined by the Organic Law on Food and Nutrition Security, as well as in article 11 of the International Covenant on Economic Rights, Social and Cultural and other international legal instruments.

The Xavante, like other indigenous peoples, continue to resist the consequences of contact with non-indigenous people and fight for their rights. It is essential to emphasize the political character of the food and territorial issue. According to the anthropologist João Pacheco de Oliveira (2022), fighting for a territory also implies understanding the meaning of the transformations in which an indigenous people is involved, since they deeply affect their customs, the current manifestations of their knowledge and their identity expressions. Thus, understanding the spaces of *Ró* is crucial for the development of a deep ecological understanding of the Xavante ways of life, including their eating practices, within a continuous history of involvement and relationships with other living and non-living beings in the environment.

The multiplicity of food traditions should be known to support propositions of strategies aimed at food security and sovereignty, respecting the particularities *A'uwẽ uptabi.* In this logic, the strengthening of practices considered traditional still present and linked to the use of the territory seems to be a viable way in the urgency of guaranteeing a food capable of ensuring basic needs and the Xavante identity itself. However, the proposals must have some flexibility, being open to intercultural dialogue and considering the peculiarities that permeate the socio-cultural logic of indigenous peoples.

Finally, the struggle for adequate nutrition is inherent in the struggle for land. By organizing themselves for the right to land, the Xavante are not only fighting for the demarcation of lands, to which they are entitled, but above all, they are fighting for the right to a way of life, for their autonomy and existence as *A'uwẽ uptabi,* collective subject. It is in the territory that the completeness of physical and symbolic spaces, bodies, knowledge and political struggles are manifested. In the chief's words, "being space is a condition of our existence".

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Navigating Jurisdictional Turbulence on Maritime and Civil Aviation Labour Claims in Nigeria: *Federal High Court* Versus *National Industrial Court* Controversies

By Hon. Justice Oluwakayode Ojo Arowosegbe
National Industrial Court

Abstract- Controversies have trailed the frontiers of the civil jurisdictions of the Federal High Court [FHC] and National Industrial Court [NIC] since the bifurcation of the FHC's civil jurisdiction in favour of the NIC over labour matters by S. 254C of the Constitution, such that, both courts have been asserting rival jurisdictions on the same subject matter, with the consequence that, the purposes of conferring exclusive civil jurisdictions on both – specialization and efficiency – are being thwarted. While some of these controversies have been settled with the acceptance of the appellate decisions on them, the controversies regarding the frontiers of their mutually exclusive civil jurisdictions on admiralty/aviation labour causes have, however, remained intractable. With the recent Court of Appeal's decision in Bains' case [2021], confirming the NIC's exclusive civil jurisdiction on merchant shipping/civil aviation labour matters, it was thought, the contest had been rested, but it has instead, become more ferocious, as legal writers have joined the fray, majority of who vehemently disagreed with the Court of Appeal's decision.

Keywords: admiralty/maritime/merchant shipping, civil aviation/commercial aviation, labour/ employment disputes, jurisdiction, federal high court, and national industrial court.

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NAVIGATINGJURISDICTIONALTURBULENCEONMARITIMEANDCIVILAVIATIONLABOURCLAIMSINNIGERIAFEDERALHIGHCOURTVERSUSNATIONALINDUSTRIALCOURTCONTROVERSIES

Strictly as per the compliance and regulations of:

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Hon. Justice Oluwakayode Ojo Arowosegbe[±]

Abstract- Controversies have trailed the frontiers of the civil jurisdictions of the *Federal High Court* [*FHC*] and *National Industrial Court* [*NIC*] since the bifurcation of the *FHC's* civil jurisdiction in favour of the *NIC* over labour matters by S. 254C of the *Constitution*, such that, both courts have been asserting rival jurisdictions on the same subject matter, with the consequence that, the purposes of conferring exclusive civil jurisdictions on both – specialization and efficiency – are being thwarted. While some of these controversies have been settled with the acceptance of the appellate decisions on them, the controversies regarding the frontiers of their mutually exclusive civil jurisdictions on admiralty/aviation labour causes have, however, remained intractable. With the recent *Court of Appeal's* decision in *Bains' case* [2021], confirming the *NIC's* exclusive civil jurisdiction on merchant shipping/civil aviation labour matters, it was thought, the contest had been rested, but it has instead, become more ferocious, as legal writers have joined the fray, majority of who vehemently disagreed with the *Court of Appeal's* decision. With these vociferous dissentions, the tone is set for the not-unusual appellate courts' conflicting decisions on such recondite issues as this, soonest: ensuing in grave uncertainty in the law. This portends grave implications for the transnational merchant shipping/ commercial flights and the national economy, considering the centrality of merchant shipping/commercial aviation to commerce and the national economy. There is clearly a disconnect. This article attempts a rigorous interrogation of the problem and, provides a panacea, for greater efficiency. As a doctrinal research, it relies on primary and secondary materials.

Keywords: admiralty/maritime/merchant shipping, civil aviation/commercial aviation, labour/employment disputes, jurisdiction, federal high court, and national industrial court.

I. Introduction

Ever since the bifurcation of the jurisdiction of *Federal High Court* [***FHC***] in 2011[1] in favour of the *National Industrial Court* [***NIC***] in civil causes, conflicting decisions have been rolling out from both courts on maritime labour claims. They have been asserting rival jurisdictions on maritime labour causes. So grave is the recondite nature of the problem that, even the *FHC* has been singing discordant tunes within itself! Some of the *FHC's* cognate decisions are: *Moe & Ors v. MV Phuc Hai Sun*[2] [***Moe's case***], *Assurance Forenningen Skuld (GJENSIDIG) v. MT Clover Pride & Anor*[3] [Skuld's Case] and, *Amarjeet Singh Bains & 6 Ors v. The Vessel MT Sam Purpose & Anor*[4] [***Bains' case***]. In the first [*Moe's case*], the *FHC* assumed exclusive jurisdiction while in the second [*Skuld's case*], the *FHC* contradicted itself, by conceding exclusive jurisdiction to the *NIC*, holding that, the *NIC* had exclusive civil jurisdiction over maritime labour claims. It also voided S. 2(3)(r) of the *Admiralty Jurisdiction Act* [***AJA***], which listed seafarers' wages as part of the admiralty jurisdiction of the *FHC*. It held further that, S. 251(1)(g) of the *Constitution*, which granted the *FHC's* admiralty jurisdiction, was subject to S. 254C-(1)(a)&(k) of the *Constitution*.

Surprisingly, in the third, which is *Bains' case*, the *FHC* made a U-turn from its penultimate decision, holding again that, the *NIC* lacked jurisdiction over maritime labour causes, while it had exclusive jurisdiction. Whereas, in *Stephen v. Seateam Offshore Limited*[5] [***Stephen's case***], the only one that was filed directly in the *NIC*, the *NIC* held that the *FHC* lacked jurisdiction and assumed exclusive jurisdiction for exactly the same reasons the *FHC* divested itself of jurisdiction in favour of the *NIC* in *Skuld's case*. Such is the unintended consequence of the bifurcation of the jurisdiction of the *FHC* in favour of the *NIC* that, it has threatened the very idea of specialisation for greater efficiency that informed the bifurcation. Such is the situation that litigants have been finding it extremely difficult to decide the court to approach for maritime labour disputes. The negative signal to the international merchant shipping community and, the negative consequence on the national economy, are axiomatic.

Good enough, *Bains' case* went on appeal and, the *Court of Appeal*, in its well-considered decision[6],

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[1]* The views expressed are entirely the author's personal views, except otherwise stated.
The Third Alteration Act, 2010.

[2] Unreported Suit No. FHC/L/CS/592/11 [Lagos Division, June 20, 2014].
[3] Unreported Suit No. FHC/L/CS/1807/2017 [Lagos Division, March 28, 2018].
[4] Unreported Suit No. FHC/L/CS/1365/2017 [Lagos Division, May 22, 2020].
[5] NICN/PHC/124/2017 [Port Harcourt Division, Feb. 02, 2020] at https://www.nicnadr.gov.ng/nicnweb/displayr.php?id=4452 [Accessed Feb 7, 2024].
[6] *The Vessel MT Sam Purpose & Anor (Ex MT. Tapti) v. Amarjeet Singh Bains* (2021) LPELR-56460 (CA).

based on literal interpretation of the regnant constitutional provisions, overruled the *FHC* and held that, the *NIC* is the Court seised of exclusive civil jurisdiction in admiralty labour claims. One would have expected that, this would put paid to the lingering controversies, the *Court of Appeal* being the highest court[7] on labour cases in Nigeria and, considering the erudition of the decision itself. But this was not to be; as immediately thereafter, all hell broke loose, with torrents of severe criticisms[8] trailing the *Court of Appeal's* decision, from both respected academics and elite practising lawyers; with the singular consensus that, the decision was wrong and that, the *NIC* lacked jurisdiction, while the *FHC* had exclusive jurisdiction. They were all of the opinion that, the *Court of Appeal* ought not to have used literal interpretation and that, even at that; it got it wrong. Only one of the countless articles agreed that, the *NIC* has exclusive jurisdiction[9], while another one, which was actually published before the *Court of Appeal's* decision under review, grudgingly conceded the *FHC* and the *NIC* shared concurrent jurisdiction[10]. All, with the lone exception cited, recommended that, the *Court of Appeal's* decision needed to be reconsidered and, that, there was the urgent need for constitutional alteration, to remove the source of the controversies. And surprisingly, the consensus was that, ceding jurisdiction to the *NIC* over maritime civil causes would have severe negative consequences for merchant shipping and the national economy.

With this unremitting opposition, it is evident that, the issue is recondite, particularly so, seeing that, the *FHC* surprisingly could not even agree within itself, by giving self-contradictory decisions on the issue. And the lone supporter of the *NIC's* exclusive jurisdiction in this behalf did not throw new light on the issue. The erudite author only attempted to strengthen the arguments already covered by the *Court of Appeal*. So, the need for shedding an entirely new light on the issue remains poignant, otherwise, the controversy lingers on to the detriment of international commerce on merchant shipping and the national economy. In the second place, it would appear that, the misgivings expressed on the negative consequences of ceding exclusive civil jurisdiction to the *NIC* over maritime labour causes, were ill-conceived thus, demanding thorough examination to situate why, in the modern configuration of labour jurisprudence, it is the *NIC* that actually has exclusive civil jurisdiction.

With the trenchant criticisms from the law elites, it needs no soothsaying that, the last is yet to be heard on the issue, even though, the *Court of Appeal* is the highest Court on labour matters in Nigeria, giving the fact that, it is not unusual for the *Court of Appeal* to give conflicting decisions on complex issues like this[11]. It is evident that, very soon, the *Court of Appeal* would be re-approached on this same issue, in similar cases that are bound to come up soon and, urged to reverse its decision, and this would most probably happen, given the recondite nature of the issue and the fact that, different panels might simultaneously sit on these appeals, coupled with the fact that, these panels are most likely to be manned by justices without expertise in labour law, as the *Constitution* did not recognise the specialised nature of labour law at the *Court of Appeal* level, unlike its special recognition of Customary and Islamic laws, in the appointment of justices to the *Court of Appeal* for which, experts in both fields must be appointed, to partake in panels in the dispensation of justice in the two fields. So, there is no special panel manned by labour law specialist justices for labour cases at the *Court of Appeal*.

It might happen too that, lawyers on the opposing sides and judges at the trial level and justices at the *Court of Appeal* might not even be aware of this *Court of Appeal's* precedent when adjudicating similar issues in the near future, and consequently unwittingly bypass *stare decisis* by giving contrary decisions at both levels, considering the common occurrence of such, even at the *Supreme Court*[12] level, on recondite issues.

[7] *Skye Bank Plc v. Iwu* [2017] LPELR-42595 (SC) 39-42, F-A.

[8] Unini Chioma, "*Unpaid Wages Of Crew Members: Case Review Of The Vessel Mt Sam Purpose (Ex Mt. Tapti) & Anor V. Amarjeet Singh Bains & 6 Ors*" [Apr 8, 2021] at www.thenigerialawyer.com [accessed Oct 01, 2022]. FAMSVILLE Solicitors, "*Jurisdiction of the National Industrial Court in maritime labour claims: A Review of the court of appeal decision in MT SAM PURPOSE V AMARJEET SINGH BAINS*" at www.famsvillelaw.com [accessed Oct 01, 2022]. Temple Damiari, "*Unpaid Wages of Crew Members: A Review of Mt Sam Purpose (Ex Mt. Tapti) v Amarjeet Singh Bains*", *Gravitas Review of Business Law*, Vol. 12, No. 2 (June 2021) at www.gravitasreview.com.ng [accessed Oct 01, 2022]. E.I. Richard, "*The Jurisdictional Dispute Over Seafarers Wages: Revising The Decision Of The Court Of Appeal In The Vessel Sam Purpose (Ex Mt. Tapti) & Anor V. Amarjeet Singh Bains & Ors"* [Posted May 4, 2021] at www.papers.ssrn.com [accessed Oct 01, 2022]. Dayo Adu *et al*, "*Nigeria: Jurisdiction Of The National Industrial Court In Maritime Labour Claims: A Review Of The Court Of Appeal Decision In Mt Sam purpose V Amarjeet Singh Bains*" [June 11, 2021] at www.mondaq.com [[accessed Oct 01, 2022]. These are just representative examples of the galore articles.

[9] ADVOCAAT Law Practice, "*Who has jurisdiction over Maritime Labour Claims: FHC or NIC?*" [Oct 7, 2021] at www.legal.businessday.ng [accessed 01/10/2022].

[10] A.A. Olawoyin, "*Enforcement of Maritime Claims: The Unintended Consequences of Constitutional Change on Admiralty Jurisdiction in Nigeria*", (2021) Vol. 12, No. 1, (March 2021), *The Gravitas Review of Business & Property Law*, p. 10 at https://www.gravitasreview.com.ng [accessed Oct 26, 23]. It is also in *ResearchGate* [April 2021] at https://www.researchgate.net [accessed Oct 26, 23].

[11] *Skye Bank* v. Iwu op. cit. It is a good example of a case detailing the conflicting decisions of the *Court of Appeal* on the issue of right of appeal against the decisions of the *NIC*.

[12] *Onuaguluchi v. Institute of Management and Technology & Ors* at https://www.nicnadr.gov.ng/nicnweb/displayr.php?=7362 [Accessed Feb 6, 2024]. This case gave a good account of the recurrent conflicting decisions of both the *Court of Appeal* and the *Supreme Court* on the applicability of the *Public Officers (Protection) Act* to contracts for about six decades unremitted till now!

And giving conflicting decisions would definitely be to the detriment of merchant shipping, with ultimate negative effects on the national economy, if the potential legal imbroglios were not quickly nipped in the bud, by proactive enlightenment that clears the fogs. It is therefore expedient for all to see clearly that; truly it is the *NIC* that has exclusive civil jurisdiction on maritime labour claims and the positive implications for labour relations and the national economy. In a nutshell, apart from situating, by purposeful interpretation, the *NIC's* exclusive civil jurisdiction on the subject matter in view, it is also necessary to disabuse the stakeholders' minds of the misgivings expressed on the grant of exclusive civil jurisdiction to the *NIC* on this issue, by showing the ironic nature of these misgivings. These are the purposes of this article. These are particularly pertinent because, jurisdictional rigmaroles are the major cause of unreasonable tardiness in adjudications in Nigeria[13]. And with the virulence of the galore articles against the *Court of Appeal's* decision on point, the issue naturally demands a very comprehensive and rigorous treatment; otherwise, the controversy might linger for long.

The precursor of this more comprehensive research was originally posted on the *All NICN Judges*, the WhatsApp page of the *NIC's* judges, June 2, 2020, as a critical review of *Bains' case*, which was posted on the same WhatsApp page the previous day. And that was shortly after it was delivered May 22, 2020. The *Court of Appeal's* decision on it was delivered March 5, 2021, about nine months later. This initial write up for the in-house consumption of the *NIC's* judges, canvassed essentially the same points that are now reviewed and improved in this article, as the reasons why the *NIC* has exclusive civil jurisdiction over maritime/aviation labour claims. It generated a lively discussion amongst the *NIC's* judges, and I had thought, I would firm it up for publication in a learned journal. However, before that could be done, the *Court of Appeal* delivered its landmark decision, affirming the conclusion reached in the domestic write up.

I thought that was the end but, following the unexpected trenchant and unremitting criticisms that were railed against the *Court of Appeal's* decision, and reading the *Court of Appeal's* erudite decision, the research found that, the *Court of Appeal* was unfortunately, oblivious of all the specialised points, some impinging constitutional and statutory provisions canvassed in the domestic write up, as the reasons why the *NIC* has exclusive civil jurisdiction over maritime/aviation labour causes, as it only dealt with a literal construction of some of the directly cognate provisions of the immediate pertinent statutes and the *Constitution*, while unwittingly leaving out some vital relevant statutory provisions thus, the unremitting criticisms. And incidentally, these special/technical points and the coordinate constitutional and statutory provisions, which the *Court of Appeal* and all the writers on the issue are oblivious of, are the very points that can convincingly remove all shades of uncertainties on the fact that, it is the *NIC* that truly has exclusive civil jurisdiction over all maritime/civil aviation labour claims and, irreproachably settle the matter. They are the eye-opener and the key to unlocking the enigma of the science of tracing the frontiers of the jurisdictions of the *FHC* and the *NIC*. This is because, labour law is a highly specialised and complex subject and, incidentally, the *Court of Appeal*, is a general jurisdiction court. And here we are, faced with the trenchant and unceasing criticisms of the *Court of Appeal's* decision on the issue, which criticisms also did not consider these highly technical points, raising the spectres of future departure from the extant *Court of Appeal's* correct decision and inimical conflicting decisions therefrom, thus, accentuating the dire need for the publication of this research.

The research also found that, all the critical reviews consulted on the *Court of Appeal's* decision in issue, equally did not address these highly technical points and the impinging constitutional and statutory provisions unearthed by this research. And this too, is largely because the writers, academic and practitioners, were not labour law experts, as the practice of law in Nigeria is, by law, non-specialised general practice and generally practised as such. It therefore becomes apparent that the issue of which court has exclusive civil jurisdiction over maritime/aviation labour disputes, has not been rested by this laudable but yet vilified *Court of Appeal's* decision and that, for it to be resolved beyond resuscitation, these highly technical points and the cognate constitutional and statutory provisions, which have not been addressed, must be brought to the fore of the discussions on the issue, to rest them once and for all. Thus, the need to publish this research for the consumption of the stakeholders has never been more germane than now, at the very crossroads of the landmark *Court of Appeal's* decision.

From the controversies trailing the frontiers of the exclusive civil jurisdictions of the *FHC* and the *NIC*, it would appear that, the philosophy of efficient, fair and speedy dispensation of justice that informed the creation of courts with exclusive jurisdiction in Nigeria is being thwarted and, paradoxically producing the exact opposite of the noble intendments. This article interrogates the missing links and, provides the connecting rods, so that, both the *FHC* and the *NIC* together with the stakeholders, could easily appreciate the exact frontiers of their jurisdictions for greater efficiency and speedy dispensation of justice in their distinct areas of jurisdictions. The article finds that, the trenchant and unrelenting criticisms of the *Court of Appeal's* decision proceeded on wrong footings and, in

[13] *Obiwuebi v. CBN* (2011) LPELR-2185 (SC), which took 23 years to settle issue of jurisdiction alone.

ignorance of the goldmines in the salient provisions of the *Third Alteration Act*, other salient constitutional and statutory provisions, and the collateral *ILO* instruments and other international labour law instruments that combined to give the *NIC* exclusive civil jurisdiction over maritime/civil aviation labour claims. The dire need for this article becomes ever more poignant because of the negative economic implications of unwittingly ceding civil jurisdiction to the *FHC* in maritime/civil aviation labour claims. The research being doctrinal; relies on both primary and secondary materials. The primary sources are: the cognate conflicting decisions of the two courts, the recent *Court of Appeal's* decision in *Bains' case* being primus, the *Constitution*, the *Labour Act* [*LA*], the *National Industrial Court Act* [*NICA*], the *Civil Aviation Act* [*CAA*], the *Merchant Shipping Act* [*MSA*] and, the *Admiralty Jurisdiction Act* [*AJA*]. The secondary sources are: local and foreign cognate decisions, journal articles, *ILO* instruments and other international labour instruments.

It however needs be observed at the outset that, in all the articles read, none touched on the issue of civil aviation labour claims, which was part of the decision that went on appeal, though in *obita*. All were fixated on the contests for labour admiralty jurisdiction between the *FHC* and the *NIC*. Thus, the scope of this research covers both maritime and civil aviation labour claims, in order to clarify the existing controversies on maritime labour claims and, to nip in the bud, likely future controversies on aviation labour claims too. It needs be noted at this juncture that, this treatise uses the words: "admiralty", "maritime" and "merchant shipping" interchangeably. In like manner, the words "worker" and "employee" are used interchangeably and also, the phrases "civil aviation" "commercial aviation" and "commercial flights" too. The article moves to the real business. The paper is structured into bold-type capitalised headings for the major divisions and, bold title-case in alphabetical order, for the subheadings.

II. Critical Analysis of the Conflicting Positions

a) *Excerpts From the Trial and Appellate Decisions on Bains' Case*

Logically, *Bains' case*, the only decision in this area of the law that went on appeal and in which the *Court of Appeal* overturned the *FHC*, and which ignited the present controversies, must be the focal point of this discourse. The brief facts of the case were that: the plaintiff at the *FHC*, and respondent at the *Court of Appeal*, sought several reliefs bordering on wages and sundry costs. He was a seafarer. He accompanied his writ with ex-parte application to arrest the ship in rem, as pre-judgment lien and, it was granted. The defendant, now appellant, later filed objection that, the *FHC* lacked jurisdiction over the case while the *NIC* had exclusive jurisdiction, by virtue of S. 254C-(1)(a)&(k) of the *Constitution*. In finding that the *NIC* lacked jurisdiction, His Lordship, Faji J. of the *FHC* held at page 18 that:

> "The Constitution must be construed as a whole. Section 254C(1)(b) having incorporated the Labour Act, that Act must be read along with the Constitution in construing it. The Labour Act has defined the extent of the jurisdiction of the Court over workers by excluding crewmen i.e. those under the Merchant Shipping Act and workers in the aviation industry.
> …Counsel's reference to Maritime Convention Act and section 66 of the Merchant Shipping Act is thus not entirely off-point.
> The subject matter of this claim is thus clearly outside the jurisdiction of the National Industrial Court. I am therefore unable to follow the decision of Idris J. (as he then was) in the CLOVER PRIDE's case.
> I therefore hold that this suit is properly situate in the Federal High Court."

Note that *Clover Pride's case* in the quotation is the same as *Skuld's case* [supra]. The above is the kernel of the reasoning by which the *FHC* dismissed the objection and assumed exclusive jurisdiction. Being dissatisfied with the decision, the defendant/appellant appealed. In overturning the *FHC's* decision, the *Court of Appeal* reasoned:

> "Therefore, the interpretation to be given to the above provision of the constitution is literal approach, as the draftsman did not mince words. Section 254C-(1) of the Constitution is clear and unambiguous. It is the intention of the draftsman to confer jurisdiction on the National Industrial Court, to the exclusion of all other courts with jurisdiction pursuant to Sections 251, 257 and 272 over the subject matter of the items listed thereunder…Simply put that when the word 'notwithstanding' is used in a clause of any statute, it is to be construed as a term of exclusion…
> There is no doubt that a confusion arises as to jurisdiction because Section 1 of the Admiralty Jurisdiction Act states that the admiralty jurisdiction of the Federal High Court includes jurisdiction to hear and determine any question relating to a proprietary interest in a ship or aircraft or any maritime claim specified in section 2 of the Act…
> Section 254C-(1)(a) and (k) of the 1999 Constitution (as amended) gave the National Industrial Court exclusive jurisdiction over employee wages and other labour related matters. It is also clear from the said provisions that an action founded on claims for unpaid wages falls outside the Federal High Court's jurisdictional competence…
> Section 2(3)(r) of the Admiralty Jurisdiction Act…which differed from Section 254C-(1) of the Constitution, which conferred the same jurisdiction on the National Industrial Court is void to the extent of its inconsistency. Even though Section 251 of the Constitution provides for the admiralty jurisdiction of the Federal High Court, the express use of the word 'notwithstanding' in Section 254(C) clearly made the said Section 251 subject to the latter.[14]"

[14] *The Vessel MT Sam Purpose & Anor (Ex MT. Tapti) v. Amarjeet Singh Bains* op. cit., 21-30, C-D. That is, the appeal on *Bains' case*.

The above is the crux of the reasoning by which the *Court of Appeal* overruled the *FHC* and held that, the *NIC* is the Court with exclusive civil jurisdiction over maritime/civil aviation labour claims. The reasoning is evidently lucid enough and irreproachable in law. Surprisingly, torrential criticisms immediately followed this clearly faultless decision and have remained unremitting. In criticizing the *Court of Appeal's* decision in *Bains' case* as quoted above, the erudite legal writers[15], cutting across the shades of academic and practitioners, gave reasons, which were not dissimilar to the reasons offered by the *FHC* to assume jurisdiction and, which were all dismissed in the appeal. They only tried to strengthen them. In all the numerous articles read, the arguments were virtually the same and, they cited virtually the same legal principles, statutory provisions and similar authorities. One could safely take the article of Unini Chioma[16], as the amalgam of the essential arguments contained in all the others, being very elaborate and, touching on virtually all the statutes mentioned in the others and, above all, containing virtually the same arguments, but with more elaborations. The only slightly differing article is that of erudite Olawoyin [supra], which only differed in that, it was of the opinion that, both the *FHC* and the *NIC* shared concurrent jurisdictions on disputes on seafarers' wages, and for that reason, has some peculiar arguments, which shall be specifically attended to. Other than this, one can summarise their composite arguments as follows:

1. SS. 251(1)(g) and 254C-(1)(b) of the *Constitution* construed with S. 91(1)(f) of the *Labour Act* [***LA***] excludes the *NIC* from admiralty jurisdiction of which maritime labour disputes are part; 2. Both SS. 251(1)(g) and 254C-(1)(a)&(k) of the *Constitution* are couched in affirmative exclusivity and, have equal forces, so, S. 254C-(1)(a)&(k) of the *Constitution* cannot take away the admiralty jurisdiction of the *FHC*; 3. S. 254C-(1) of the *Constitution* did not mention admiralty, crew wages and seamen, so, did not affect the admiralty jurisdiction of the *FHC*; 4. The *FHC*, like the *NIC*, equally has jurisdiction to apply international maritime conventions by virtue of the *AJA*&*MSA*; 5. Seafarers' best way of securing the reliefs in admiralty claims, is by instituting actions in rem to arrest the ships as pre-judgment liens, which is part of admiralty jurisdiction exclusively granted to the *FHC*; 6. The action in rem takes the ship as the employer, as distinct from the actual human/corporate employer, so, the *NIC* would not be able to order arrest of ships, since it lacks admiralty jurisdiction; 7. Since the *NIC* would not be able to grant admiralty order to arrest ships, the seafarers would be disadvantaged by being limited only to actions in *personam* thus, defeating the most potent pre-judgment way of securing the reliefs claimed, which would in turn negatively afflict merchant shipping in Nigeria and the national economy; 8. The *NIC Rules* have no provisions for admiralty practice and procedure; 9. The *LA*, *AJA*, *MSA*, *CAA* and the *Federal High Court Act* [***FHCA***] became part of the *Constitution* by incorporation, and so, S. 2(3)(r) of the *AJA* must be construed as part of S. 251(1)(g) of the *Constitution*, to deny *NIC* jurisdiction; and 10. The *Court of Appeal* ought not to have applied the literal rule of interpretation.

The above digests constitute the kernels of the arguments against the *Court of Appeal's* decision in *Bains' case* under consideration. The validity of these arguments is to be critically examined now. Constitutional questions, being the *fons et origo* of the validity or otherwise of all the arguments, shall be examined first. But before then, it needs be stated, as a general preface to the interpretation of amendments to existing statutes or brand new statutes, which is the major work in this research that, the words of a new statute or amending statute are construed without reference at all, to the old amended statute or the previous position of the law before the brand new statute and, given their natural meanings and effects[17]. This is to disabuse the minds of the courts from prejudice ingrained by the previous statutes or positions of law. It is therefore wrong to construe a new or amending statute in the shadows of the old amended statute or the common law or previous case law by trying to compare the two. The paper proceeds on the foregoing platform to the real business.

b) Proper Construction of SS. 251(1)(g) & 254C-(1)(a)-(b)&(k) of the Constitution with SS. 91(1)(f) of the LA and 2(3)(r) of the AJA

The basic premise is that, with the clear antagonistic exclusivity of the civil jurisdictions of both the *FHC* and the *NIC*, there is no way both courts can share concurrent jurisdictions on any civil cause. So, with the utmost respect, it is wrong to posit that, the *FHC* and the *NIC* share concurrent jurisdiction on any civil cause, as opined by erudite Olawoyin. Wherever *NIC* has civil jurisdiction, the *FHC* Court must lack civil jurisdiction, since both have mutually exclusive civil jurisdictions. If it is recollected that the *FHC* used to exercise exclusive civil jurisdiction over all labour/ employment matters involving the *FGN* and its agencies and that; this jurisdiction has been excised from it in favour of the *NIC* by S. 254C-(1)&(2) of the *Constitution*, it will be clear that the *Third Alteration Act* actually sets out to completely usurp all things labour/employment howsoever styled from the *FHC* completely. Therefrom, it will be difficult to fathom how it could be logically argued that this intendment to excise completely the

[15] Unini Chioma and 4 other different writers listed in Note 8 op cit.
[16] Ibid.
[17] *Sahara Energy Resources Limited v. Oyebola* (2020) LPELR-51806 (CA) 43-56, B.

FHC's labour/employment jurisdiction, does not extend to maritime or merchant shipping labour/employment causes.

The foregoing is what the *Supreme Court* had in mind when it said the *Third Alteration Act* recognised the *NIC* as a specialised court and gave it exclusive jurisdiction over all labour and employment matters[18]. And the basic rule of interpretation is the literal rule[19], which the *Court of Appeal* correctly applied in the interpretation of the cognate provisions in issue. All other rules of interpretation are resorted to, only where there is ambiguity or absurdity. Giving a composite construction to the whole of the provisions of the *Constitution* but with particular reference to SS. 251(1)(g) and 254C-(1)(a)-(b)&(k), one cannot escape the conclusion that, the *Constitution* clearly demonstrated the grant of exclusive civil jurisdiction to the *NIC* in all labour/employment matters and matters incidental, howsoever called or styled. This conclusion is inescapable, apart from the introduction of S. 254C-(1) with the subjugating word or non-obstante clause "notwithstanding", which the *Court of Appeal* discussed with approval in *Bains' case*; the language of S. 254C-(1)(a) cures any iota of doubt, by further saying any issue:

> "Relating to or connected with ***any*** *labour, employment*, trade unions, industrial relations and matters arising from workplace, the conditions of service, ***including*** health, safety, welfare of labour, employee, worker and matters *incidental thereto or connected therewith*…"

The words "any" and "including" employed therein; are words of inexhaustive expansion and, incorporation of all *ejusdem generic*[20] items. They reinforced the earlier use of the subjugating word "notwithstanding" at the beginning of S. 254C-(1) of the *Constitution* and, go further to show that, all civil labour claims arising from any type of workplace, involving any type of worker or any type of labour, howsoever called or styled, is vested in the *NIC* exclusively. The introductory phraseology of S. 254C-(1) removed any form of doubt on the exclusivity of the civil jurisdiction of the *NIC* over any and, all types of labour claims, including wages when, it clearly says that, the civil jurisdiction of the *NIC* shall be exercised "to the exclusion of any other court…" S. 254C-(1)(a) is the nucleus of the subject matter jurisdictional scope of the *NIC* in civil causes. All other subsequent provisions of S. 254C-(1)-(2) of the *Constitution* are mere elaborations of this self-sufficient nucleus. The other items are inserted to obviate this type of controversy. Without the further elaboration, the *NIC* would still have had exclusive civil jurisdiction on all types of labour and employment matters with the self-sufficient provisions of S. 254C-(1)(a) alone. That must be borne in mind in discussing the latitude of the civil jurisdiction of the *NIC*, which the pro-*FHC* writers did not pay attention to. The arguments have been vociferously made that, S. 254C-(1)(b) of the *Constitution*, as kick-started by His Lordship Faji J. in *Bains' case*, which lists out some labour related statutes, ousts the civil jurisdiction of the *NIC* on admiralty/civil aviation labour claims. These arguments are, with profound respect, misconceived.

First, the law is that, nothing, which ordinarily is an incident of the jurisdiction of a superior court, should be whimsically yanked off, unless there is clear yanking-off of such in the statute granting the jurisdiction[21]. S. 254C-(1)(b) of the *Constitution* lists out some statutes, which it says, the *NIC* has exclusive civil jurisdiction to apply. Like hinted earlier, without the provisions of S. 254C-(1)(b) of the *Constitution*, with the exclusive civil jurisdiction of the *NIC* under S. 254C-(1)(a), over all categories of labour relations, workers and workplaces, the *NIC* undoubtedly would still have retained the exclusive civil jurisdiction to apply any labour statutes because, the principal work of a court is to interpret and apply relevant statutes to the proved facts of intra-jurisdictional cases, without any further assurance[22]. S. 254C-(1)(b) is therefore; an explanatory surplusage to S. 254C-(1)(a) of the *Constitution*, meant to avoid controversy of this nature, as to the width of the *NIC's* jurisdiction, and ironically, it is being used as the anchor of the present controversies!

In the second place, a close study of the provisions of S. 254C-(1)(b) shows that, the interpretation attached to it by the erudite authors and, the *FHC* in the *Bains' case*, is with humility, not correct. The internal aid testimony favours the opposite view championed by this research, as evidenced in the phrase "or *any other* Act or Law relating to labour, employment, industrial relations, workplace…" in the self-same S. 254C-(1)(b), which the erudite dissenting authors unwittingly glossed over, the simple meaning of which is, the *NIC* has all-encompassing jurisdiction to interpret and apply any other labour statute, outside the listed ones. It means the list is not exhaustive. Erudite Olowoyin got this right in his equally erudite article supra. It is by this rule that, the *NIC* applies the cognate provisions of the *Armed Forces Act* [***AFA***] relating to the employment of military officers including naval, air-force and army, even though, not directly listed in S. 251C-(1)(b) of the *Constitution*. There is no denying the fact that, SS. 1(1)(b)-(c) & 2(3)(c)-(d)&(r) of the *AJA* contained provisions relating to employment rights of maritime/aviation workers. It does not matter that these employment relationships are onboard ships and aircrafts. It is in exactly the same manner by which the

[18] *Skye Bank v. Iwu* op. cit at 146, C.
[19] Ibid, 118, B-C.
[20] *Oyeniran & Ors v. Egbetola & Anor* (1997) LPELR-2876 (SC) 19-20, F-A.
[21] *Anakwenze v. Aneke & Ors* (1985) LPELR-481 (SC) 15, A-C.
[22] *APC v. INEC & Ors* (2014) LPELR-24036 (SC) 65, E.

NIC applies the cognate provisions of the *AFA* that, it has the exclusive civil jurisdiction also, to apply the cognate provisions of the *AJA* and *MSA* in relations to merchant shipping/civil aviation labour claims.

Apropos of which, it is erroneous to argue that, because, S. 91(1)(f) of the *LA* excludes seafarers and civil aviation workers in its definition of ***worker*** that, it inferentially excludes them from the confines of the exclusive civil jurisdiction of the *NIC*. What the exclusion in the *LA* means, is that, other relevant statutes, like those of the *AJA*, *MSA* and *CAA* are the applicable statutes, in line with the mandate of the *NIC* under S. 254C-(1)(b) of the *Constitution* to apply "*…any other Act or Law…"* other than those therein specifically listed, once they relate to labour/employment/industrial relations/workplace. Therefore, it is the *NIC* that now has the exclusive civil jurisdiction to apply the relevant labour-related provisions of the *AJA*[23], *MSA*[24] and *CAA*[25] to the categories of workers therein named. The *Court of Appeal* was therefore irrefutably correct in its conclusion that, S. 91(1)(f) of the *LA*, or rather, the whole of the *LA*, was inapplicable to seafarers and civil aviation workers, but was, with respect, not correct that, S. 254C-(1)(b) was also irrelevant. It is relevant because, it directly gives the *NIC* the civil jurisdiction to apply any other cognate statutes than those directly listed therein, which makes the cognate provisions of the *MSA*, *AJA* and *CAA* *intra-vires* the exclusive civil jurisdiction of the *NIC*. Though, like the research observed earlier, the position would have remained the same without S. 254C-(1)(b) because, it is a court's duty to apply laws [statutory or common law or case law] to the proved and relevant evidence before it without promptings. It is therefore paradoxical that, S. 254C-(1)(b), meant to avoid ambiguity, is being cited, as not only birthing ambiguity but, as actually removing the exclusive civil jurisdiction that S. 254C-(1)(a) expressly granted the *NIC*!

It needs be pointed out too, that, S. 91 of the *LA*, not only excludes seafarers and civil aviation workers in its definition of ***worker***[26], but also excludes military officers, administrative and technical officers in the public service, in fact, all senior civil and public servants[27]. The *LA* is actually meant to cater for low cadre workers like artisans, manual labourers, agriculture hands, and menial workers. The vast majority of the other workers are left for other statutes and, the *NIC* still continues to exercise exclusive civil jurisdiction over them and the cognate statutes regulating their employments. The *NIC* would not have continued to have jurisdiction over these other classes of workers, excluded in the definition of ***worker*** in the *LA*, were the posture being touted by the pro-*FHC* jurists, correct. Were it that, the *AJA, MSA* and *CAA* did not provide for these other categories of workers, they would still have come under the exclusive civil banner of the *NIC*, by virtue of S. 254C-(1)(a) and, would have been covered under the common law, if no other statute provided for them. It means their mere exclusion by S. 91(1)(f) of the *LA* did not take them out of the exclusive civil jurisdiction of the *NIC* but only outside the application of the *LA*.

Unini Chioma has argued that, because, SS. 251(1)(g) and 254C-(1)(a)&(k) of the *Constitution* are both couched in affirmative but mutually exclusive languages, in intendment, S. 251(1)(g) of the *Constitution* that grants the *FHC* admiralty jurisdiction to the exclusion of all other courts, cannot therefore be subjugated by S. 254C-(1)(a)&(k). Apart from the earlier answer that, S. 254C-(1) of the *Constitution* is surfeited with non-obstante words depicting absolute exclusivity of the civil jurisdiction of the *NIC*, the erudite author failed to pay heed to some salient rules of construction, otherwise, he would not have fallen into the error. S. 254C-(1) of the *Constitution*, in conferring exclusive civil jurisdiction on the *NIC*, started, by first listing out the jurisdictional sections of all the superior courts of first instance in Nigeria – SS. 251, 257 & 272 – and clearly and specifically subjugated them to the exclusive civil jurisdiction of the *NIC*. That is indubitable. The same thing is not applicable to S. 251 of the *Constitution*, which grants the *FHC* exclusive civil jurisdiction against all the superior courts of first instance, existing at the time it was inserted into the *Constitution* and, the *NIC* was not in existence then. S. 251 obviously did not list out S. 254C, which grants *NIC* exclusive civil jurisdiction, as one of the jurisdictional provisions of the *Constitution* it subjugated. The *exclusio unius rule*[28] applies and shows that, S. 251 of the *Constitution* is not meant to operate concurrently with S. 254C, which is couched with non-obstante clauses and is also, latter.

With utmost respect, it would therefore be preposterous to argue that, S. 251(1)(g), which grants exclusive civil admiralty jurisdiction to the *FHC*, would continue to grapple jurisdiction with S.254C-(1)(a)&(k), latter provisions of the *Constitution*, introduced by the *Third Alteration Act*, which directly subjugated the jurisdiction of the *FHC* to that of the *NIC* on all civil labour claims. S. 251(1)(g) of the *Constitution* could not have and, did not anticipate S. 254C-(1)(a)&(k) of the *Constitution* and, could therefore, not have the effect that would subjugate the provisions of S. 254C-(1), which are later and latter and, actually directly and

[23] S. 2(3)(r) of the *AJA* relates to maritime labour claims and SS. 1(1)(a), (c)-(d), (g) and 4(5)(3) of the *AJA* relate to civil aviation labour claims.

[24] See generally Part IX-XI, which runs from S.91-208 of the *MSA*, which are comprehensive provisions on employment, safety measures, conditions of service and discipline of workers, onboard merchant ships.

[25] S. 67 of the *CAA* relates to prohibition of industrial actions and designation of essential services of workers in the civil aviation industry.

[26] S. 91(1) (f) of the *LA* at "worker".

[27] S. 91(1)(b) of the *LA* at "worker".

[28] *Jegede & Anor v. INEC & Ors* (2021) LPELR-55481 (SC) 74, A-E.

clearly subjugated S. 251(1)(g) in very clear words, except the proponents of this idea are arguing that, S. 254C-(1) of the *Constitution* did not actually effect any amendment on S. 251, which it specifically named and directly subjugated. The basic rule of priority of two affirmative but contrary provisions of the same statute is that, the latter provision supersedes[29]. This is even more so, where the latter provision expressly amends the prior. There is no doubt that the *Third Alteration Act*, which introduced S. 254C-(1)(a)&(k) of the *Constitution* amended the pertinent provisions of the *Constitution*. Therefore, from whatever angle one looks at it, the provisions of S. 254C-(1)(a)&(k) of the *Constitution* supersede those of S. 251(1)(g) of the *Constitution*, since both cannot enjoy exclusive and opposite accommodations on the issue of admiralty/civil aviation labour claims.

It is in this respect that, the further argument that, the *AJA*, *MSA*, *CAA* and the *FHCA* are part of the *Constitution* by incorporation, and so, S. 1, 2(1)&(3)(r) of the *AJA* must be construed as part of the *Constitution*, to deny the *NIC* civil jurisdiction on maritime labour claims, cannot be right, apart from the plenary of constitutional supremacy enjoined by SS. 1(1)&(3) and 315(3) of the *Constitution* that, ordinary statutes cannot rival the constitutional provisions of S. 254C-(1)(a)&(k), more so that, these ordinary statutes are not even part of or entrenched into the *Constitution*. The *Supreme Court* has repeatedly held that, the *Land Use Act* [***LUA***], directly named and entrenched in the *Constitution*[30], with iron-cast protection against invalidation and, with the same procedure, as is wont for constitutional amendment under S. 9(2) of the *Constitution*, in case of conflict with the other provisions of the *Constitution*, is not part of the *Constitution*, and struck down[31] some of its obnoxious provisions that were in conflict with the *Constitution*.

In like manner, the amorphous provision of S. 251 to the effect that, the *National Assembly* [***NASS***] could grant the *FHC* additional jurisdiction cannot save the provisions of the *AJA* that conflict with the *Constitution*. Thus, the phrase "in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly" is simply less incorporative of any Act of the *NASS* than the *LUA* and makes such Act, an ordinary Act, like any other Act of the *NASS*. 'Jurisdiction' was employed in that context loosely for 'power', which has a subtle distinction from jurisdiction[32]. Only additional powers, distinct from jurisdiction, could therefore be granted the *FHC* by an ordinary Act of the *NASS*, which the *AJA* is, as any attempt to grant it additional jurisdiction would infringe on the jurisdiction of another superior court of first instance, as there is currently no subject that is not covered by the jurisdiction of one of the superior courts of first instance. This much is gathered from the decision of *Supreme Court* in *NUEE & Anor v. BPE*[33] that, an ordinary Act of the *NASS* cannot curtail the jurisdiction of the *SHC*.

If the *Supreme Court* could nullify some provisions of the *LUA*, directly entrenched into the *Constitution* and heavily fortified against invalidation, it is clear therefore that, the provisions of the *AJA*, *MSA*, *CAA* and the *FHCA*, which are ordinary statutes and therefore directly liable to S. 315(1)&(3) of the *Constitution*, are fully liable to the invalidating powers of the superior Courts pursuant to SS. 1(1)&(3) and 315(3) of the *Constitution*. The doctrine of incorporation of other statutes by reference would appear not to be applicable to the *Constitution*, going by the decisions of the *Supreme Court* cited, which invalidated some provisions of the extraordinary *LUA* and held that, they were not part of the *Constitution* in spite of the fact that, the *Constitution* specifically saved the *LUA* and fortified it against invalidation. In any case, the *Constitution* did not specifically incorporate the *AJA*, *MSA*, *CAA* & *FHCA* beyond S. 315(1)&(3) of the *Constitution* and, they cannot self-incorporate themselves into the *Constitution*. The tail does not lead the head. It is an anathema. They therefore enjoy exactly the same plenitude as any ordinary Act of the *NASS*. Hence, SS. 1 and 2(1)&(3)(r) of the *AJA*, remained invalidated, to the extent which they conflicted with S. 254C-(1)(a)&(k) of the *Constitution*, as has been discussed earlier.

It needs be noted too, that, the argument that, following the *NIC's* decision in *Stephen's case*, would produce the absurd result that, there would be no limit to the maritime labour jurisdiction of the *NIC*; is with respect, misconceived. S. 254C-(1)(a)-(b)&(k) of the *Constitution* actually sets out to achieve the objective of making the jurisdiction of *NIC* over maritime labour claims, all encompassing on everything labour. There is nothing esoteric or absurd in that. His lordship Idris J. of the *FHC* [as he then was] therefore got it very right when he held in *Skuld's case* supra that, the *NIC* has exclusive civil jurisdiction in all labour matters, inclusive of admiralty labour causes. That is the tenor. *NIC* is a single-subject court of exclusive but general and unlimited civil jurisdiction over all types of labour/

[29] *Jombo United Company Ltd v. Leadway Assurance Company Ltd* (2016) LPELR-40831 (SC) 18, A-B.
[30] S. 315(5)(d).
[31] *Adisa v. Oyinwola & Ors* (2000) LPELR-186 (SC) 102, C-F. See also *The Controller General of Prisons & Ors v. Elema & Anor* (2021) LPELR-56219 (SC) 25-27, C-B, where S. 47(2) of the *LUA* was voided.
[32] *Adigun & Ors v. AG Oyo State & Ors* (1987) LPELR-40648 (SC) 66-67, A-68; also *Ajomale v. Yaduat & Anor* (1991) LPELR-305 (SC) 8-9, E-D.
[33] (2010) LPELR-SC.62/2004, 38-39, B-F; also (2010) 7 NWLR (Pt. 1194) 538 S.C.

employment claims. A dispassionate reading of the whole of S. 254C-(1)-(4) of the *Constitution* cannot escape this conclusion. Therefore, you cannot attach any appellation to any civil labour claim to divest *NIC* of the civil jurisdiction clearly and exclusively granted it by the *Constitution*. It therefore logically comes to be that, once it is mentioned that, there is conflict or ambiguity or borderline situation between the provisions of SS. 251(1)(g) and 254C-(1)(a)&(k) of the *Constitution*, it is an implicit admission that, S. 251(1)(g) must give way because, that is the intendment of the amendment wrought by the *Third Alteration Act*. Both cannot enjoy contradictory validations. That this is so; is beyond arguments. It is however another thing: whether there is actually any absurdity arising from the subjugation of S. 251(1)(g) by S. 254C-(1)(a)-(b)&(k) of the *Constitution*, but that, there's subjugation, is indubitable. Let's now examine the issue of the alleged absurdity.

c) *Hints of Absurdity and The Question of Lack of Power of Pre-Judgment In-Rem Arrest of Ships*

Arguments have been proffered too, that, the decision of the *Court of Appeal* ceding exclusive civil jurisdiction to the *NIC* on seafarers' wage claims would produce the absurd result of making seafarers lose the opportunity of instituting actions in rem to arrest ships because, the *NIC* has no admiralty jurisdiction and, could therefore, not make the admiralty order of in-rem pre-judgment arrest of ships. This is an extension of the arguments on the plenary of S. 251(1)(g) of the *Constitution* and S. 2(3)(r) of the *AJA*, which the proponents had argued, ousted the jurisdiction of the *NIC* on admiralty labour claims; apropos of which, they concluded, the only actions, which seafarers could now institute, in the *NIC*, is action *in personam* against the real employers, who might be at large thus, defeating the main anchor of admiralty adjudication and throwing into disarray merchant shipping and the national economy. First, the earlier clarifications have shown, with all respect, this position to be untenable. Having found earlier that, S. 254C-(1)(a)&(k) supersedes S. 251(1)(g) of the *Constitution*, it becomes self-evident that, this new strand of the same argument is, with respect, specious and cannot be the cause of any absurdity, whatsoever.

Admiralty jurisdiction is not synonymous with the *FHC*. *FHC* used to be *Federal Revenue Court* [***FRC***] without admiralty jurisdiction before its transmutation to *FHC* with admiralty jurisdiction. Before then, it did not have admiralty jurisdiction, which was left for the *State High Court* [***SHC***]. Several provisions of the *AJA* actually concede this point[34]. In the same way that the admiralty aspect of the jurisdiction of *SHC* was cut off in favour of the *FHC*, in exactly the same way, admiralty civil labour claims have been constitutionally cut off in favour of the *NIC* and with this, follows all the powers exercisable hitherto by the *FHC* on adjudication of its hitherto admiralty labour jurisdiction. That this view is correct is exemplified in *Savannah Bank Limited v. Pan Atlantic Shipping & Transport Agencies & Anor*[35] wherein, the *Supreme Court*, by virtue of S. 236 of the *1979 Constitution*, which conferred unlimited jurisdiction on the *SHC*, held in 1987, before the promulgation of the *AJA* in 1991 that, both the *SHC* and the *FHC* had concurrent jurisdiction on admiralty causes. Once a court has jurisdiction it has the powers to grant appropriate orders coterminous with its jurisdiction. The important thing is to be certain that; maritime labour claims had actually been so cut off from the *FHC*. There ought not and cannot be any argument, where it is clear, that was the constitutional intendment. And it is very clear in the instant case that, the *Constitution* intended and actually cut off maritime labour claims from the *FHC* in favour of the *NIC*: so be it.

Nigeria is not the only country where admiralty jurisdiction is bifurcated. In Britain, admiralty jurisdiction is not confined in one court. The *Employment Tribunal*[36] has jurisdiction over maritime labour claims involving foreigners. Though, it is conceded that, arrest of ships is exclusively ceded to admiralty court, which itself is part of the *High Court* in Britain but, the fact remains that, maritime labour claims are also heard and determined in the *Employment Tribunals*[37], an inferior court. If the *Constitution* gives the *NIC* part of the admiralty jurisdiction of the *FHC*, by excising maritime labour claims from the *FHC*, it goes without saying that, the powers of the *NIC* to make its new jurisdiction efficacious automatically follow the jurisdiction. That is the intendment of SS. 6(3), (6)(a) & 287 of the *Constitution*. A superior court never has jurisdiction without the powers to lubricate it, which is why the *Supreme Court* said in *Bola & Anor v. Latunde & Anor*[38] that: "Every Court has inherent jurisdiction to ensure that its order carries into effect the decision at which it arrived[39]" This power is innate in all the superior courts of record: it cannot be taken away by any statute: it is a second nature to the superior courts[40]. That is why S. 6(3) of the *Constitution* clearly provides that, all the superior courts listed in S. 6(5)(a)-(i), of which *NIC* is one, by virtue of S. 6(5)(cc): "each court shall have all

[34] SS. 1(b)-(c), 18(1)(a) & 19 of the *AJA*.

[35] (1987) 1 NWLR (Pt. 49) 212.

[36] Courts and Tribunals Judiciary, "*How are Tribunal decisions challenged*" [Copyright Judiciary 2022] at www.judiciary.uk [accessed Sept. 30, 2022]. Case No. 2400214/2017 – delivered by the *Employment Tribunals*, *London Central*, 25 October 2017 at https://assets.publishing.service.gov.uk [accessed Nov 03, 2020].

[37] Case No. 2400214/2017 – delivered by the *Employment Tribunals*, *London Central*, 25 October 2017, op. cit.

[38] (1963) LPELR-15478 (SC).

[39] Ibid, p. 6, A-B.

[40] *Umaru & Anor v. Aliyu & Ors* (2011) LPELR-9354 (SC) 5, A-E and, *Covalent Oil & Gas Services Ltd & Anor v. Ecobank Nigeria Plc & Anor* (2021) LPELR-53391 (CA) 20-21, E-A.

the powers of a superior court of record." It must be noted that, there is a distinction between S. 6(3) and 6(6)(a) of the *Constitution*.

While S. 6(3) relates to the statutory powers of superior courts, S. 6(6)(a) relates to their inherent powers, which are entirely common law. Definitely, SS. 6(3) and 6(6)(a) could not both be speaking about the same thing, as legislatures do not use words in vain[41]. Since S. 6(6)(a) talks specifically about inherent powers, and since there are only two types of powers that courts exercise, S. 6(3) must be talking about statutory powers. The implication is that, each of the superior courts can enjoy any statutory power irrespective of whether it was specifically conferred on it, once it has jurisdiction. This means powers [inherent or statutory] automatically follow superior courts' jurisdiction. This must be so because; superior courts are not granted jurisdiction to exercise powers or to make orders, but jurisdiction over subject matters, geographical areas and persons. It is after assumption of jurisdiction that they exercise powers. S. 287 of the *Constitution* implies this, which is why it binds all authorities, courts and persons to spontaneously enforce superior courts' decisions without further assurance of having the power to make any order to effectuate the decisions. This signifies that, once there is jurisdiction, power to make any particular order to effectuate the jurisdiction, automatically follows.

Thus, once a superior court has jurisdiction, it can make any imaginable and realistic order, once necessary, to lubricate its jurisdiction; which means, its jurisdiction would substitute the court in any statute conferring power, even if not so named in the statute. It means all statutory powers are concurrent to all superior courts alike irrespective of the courts actually named in the statutes conferring the powers. Inherent powers, as the name implies, are inherent in the superior courts and, kick off once they assume jurisdictions. They are those powers the common law courts used to exercise to lubricate their jurisdictions, inherited by the superior courts in Nigeria, by virtue of S. 6(6)(a) of the *Constitution*. An essential part of inherent powers is that, a superior court has inherent power to make its decisions fructify[42]. This is what S. 287 of the *Constitution* recognises by mandating all authorities and persons to be under obligations to enforce superior courts' decisions in Nigeria. Superior courts therefore have the inherent powers to make order of injunctions to arrest ships and detain same as pre-judgment liens for actions being prosecuted and, all authorities are bound to obey such orders, made by the *NIC*, being a superior court, without further assurance. To this extent, the posture that the *NIC* cannot make in-rem pre-judgment admiralty order to arrest ships as liens for an action has no legal firmament to stand.

The admiralty powers of in-rem arrest of ships though, not entirely of common law origins, having been originally borrowed from Roman civil law, has chequered history and, intermingled with common law[43] and thereby formed part of the common law[44] Nigeria inherited from Britain, together with the cognate *Statutes of General Applications*[45] [***SOGA***]. It is therefore part of the common law or equitable powers of the superior courts in Nigeria, which all the superior courts, of which *NIC* is one, can exercise. In any case, the power of in-rem arrest of ships is a variant of *Mareva Injunction*, which substituted action in *personam* with action in rem against the ship. The *English High Court* created *Mareva Injunction* in 1975 pursuant to its powers under the *Supreme Court of Judicature (Consolidation) Act, 1925*[46] to grant mandamus and injunction. The *NIC* is equally empowered under the *NICA* – SS. 13-19 – as a Court of equity, to grant any type of injunction or any type of interim order or mandamus or any order at all and whatsoever, whether interim or not, on such terms as it deems fit. These powers cover the grant of *Mareva Injunction* and in-rem pre-judgment arrest of ships without further assurance. Even without the *AJA*, the original superior court of first instance in Nigeria – the *High Court [**HC**]* – ordinarily had the common law powers of pre-judgment in-rem arrest of ships and the powers of in-rem arrests conferred by the relevant *SOGA*[47]. The *AJA* impliedly noted this fact[48]. This is in

[41] *Ojibara & Ors v. The Governor of Kwara State & Anor* (2004) LPELR-13002 (CA) 62, D-E.

[42] *Bola & Anor v. Latunde & Anor* op. cit. and, *Ugba & anor v. Suswan & Ors* (2014) LPELR-22882 (SC) 109, A-C.

[43] Omar Mohammed Fraj, "*The Arrest of Ships: Comprehensive View on the English Law* (Master Thesis, Faculty of Law, Lund University, Spring 2012) at www.lup.lub.lu.se [accessed Sep 27, 2022].

[44] Courts and Tribunals Judiciary, "*History of the Admiralty Court*" (Copyright Judiciary 2022) at www.judiciary.uk [accessed Oct 8, 2022]. *Ontario Oil and Gas Nigeria Ltd v. FRN* (2015) LPELR-24651 (CA) 30-31, B-D and *TSK Nigeria Ltd v. Otochem Nigeria Ltd* (2018) LPELR-44294 (SC) 27-30, A-C.

[45] *The Admiralty Court Act* 1840 and 1861.

[46] AAAChambers, "*Mareva Injunction: An Appraisal of Its Meaning, Origins and Application in Nigeria*" [posted June 28, 2019] at www.aaachambers.com [accessed Jan 04, 2023]. See also M.S. A. Alenaze, "*The Mareva Injunction As A Means of Affording Protection To The Interests Of Creditors*" at https://www.maal.journals.ekb.eg [accessed Jan 01, 2023].

[47] *Admiralty Jurisdiction Act*, 1847; the Colonial Ordinance, 1890; *the Court of Admiralty Act 1890; the Nigerian Protectorate* and *Admiralty Jurisdiction Order*; the *Admiralty Jurisdiction Act 1962*; and A.K. Mgbolu, et al, "*Courts Jurisdiction to Hear and Entertain Admiralty Matters in Nigeria*", *Law and Social justice Review (LASJURE) 2 (3) 2021*, at https://www.nigeianjournasonline.com [accessed Jan 07, 2023].

[48] SS. 1(b)&(c); 18(1)(a) and 19 of the *AJA*. S. 1(b)-(c) recognised that other courts had admiralty jurisdiction before the *AJA*. S. 18(1)(a) makes limitation laws in effect before the *AJA* for maritime claims, which would have been brought before another court, still applicable. This other court is the *HC*, which used to exercise common law powers. S. 19 excised from the *HC* the right to exercise its admiralty powers.

tune with the equitable doctrine of *ubi jus ibi remedium*[49].

There is also the power of injunction inherent in superior courts, which is available to use in the attachment of properties [ships inclusive] to prevent: dissipation of potentially liable assets or the escape of the defendants from a municipal jurisdiction[50], to secure the means of paying damages in lawsuits, which could satisfy the purposes of admiralty in in-rem pre-judgment arrest of ships. But, the arguments have been made that, such attachment still falls short of admiralty in-rem arrest of ships because, it is only available in actions in *personam* and, contingent on proof of ownership whereas, proof of ownership is not germane in in-rem arrest of ships. First, it is not entirely true, as has been shown above that, the power of in-rem arrests of ships was entirely statutory. Its origin was *Common Law*. Nonetheless, while it is correct that, the arrest of ships is the fulcrum of admiralty actions in rem, which attachment cannot satisfy, it is not correct that, proof of ownership of ships is not necessary in admiralty arrest in rem. Ownership is merely presumed because of the ship's locus as the place of work of the seafarers and, proof of total lack of nexus is germane to vacation of the order[51].

Nevertheless, the singularity is that, attachment is the fulcrum of actions in personam, which obviously negates seafarers' right of actions in rem thus, the allure of in-rem arrest of ships. The problem in Nigeria is that, it seems, the common law powers of in-rem arrest of ships have been entirely supplanted by statute, since the enactment of the *AJA*. That appears to be the tenor of SS. 1, 18(1)(a) & 19 of the *AJA*. This superficially suggests the conclusion that, the *NIC* lacks statutory powers of in-rem arrests of ships and, can only rely on common law powers of mandatory injunction, which might be devoid of the advantages of the subtleties introduced in the *AJA*, if we discount the *NIC's* powers under SS. 13-19 of the *NICA* to grant any type of reliefs – interim or perpetual – once justified by the facts of the case in-vires and, the *NIC's* powers, as a superior court, to utilise both inherent and statutory powers pursuant to S. 6(3) & 6(6)(a) of the *Constitution*. Unfortunately, the *Court of Appeal* did not address this seeming grave issue in its *locus classicus* of *Bains' case* thus, creating a great vacuum, which the pro-*FHC* writers have capitalised on, as one of the pillars of their attacks on the decision. Maybe the *Court of Appeal* assumed that, it was self-evident that, a court that has jurisdiction has the necessary powers to effectuate it, as explained earlier on. Be that as it may, let us now examine, if, discounting the foregoing arguments, the *NIC* actually lacks statutory powers of in-rem pre-judgment arrest of ships, conferred on the *FHC* by the *AJA*.

The pro-*FHC* writers erroneously claimed that, seafarers would lose the right of in-rem arrest of ships, should exclusive civil jurisdiction be ceded to the *NIC* because, the *NIC* lacked admiralty jurisdiction and therefore, power to make admiralty order of in-rem arrest of ships. Is this really so? For a combination of further reasons, apart from the ones earlier given, the answer is no. We have fully examined the common law aspect but not fully, the statutory law aspect. Let us now examine the other aspect of the statutory law angle, which we have only previously half examined. First, it must be taken as settled that, the *NIC* has jurisdiction over maritime/civil aviation labour claims and, if this is termed, admiralty jurisdiction, so be it. Jurisdiction is statutory irrespective of the appellations attached to it by writers. S. 254C-(1)(a)&(k) of the *Constitution* gives *NIC* exclusive civil jurisdiction over all types of labour claims and the consequential wages/salaries without exception and, admiralty labour claims form part of labour claims. It follows that; the *NIC* automatically has part of the admiralty jurisdiction hitherto held by the *FHC*, just as it has jurisdiction over military labour claims hitherto exercised by the same *FHC*. S. 54(2)(a)&(b) of the *NICA*, construed with S. 254D of the *Constitution*, also cures the alleged lack of statutory power in the *NIC* to make cognate admiralty orders of in-rem arrest of ships, assuming the previous arguments in this research did not suffice. This, the pro-*FHC* erudite writers failed to cognisance.

S. 254D of the *Constitution* gives the *NIC* the plenitude of all the powers of a *HC*, of which the *FHC* is one thus, implying that, the *NIC* can lawfully exercise all the powers conferred on the *FHC* by the *AJA* without any further assurance thus, filling the seeming void. S. 54(2)(a)&(b) of the *NICA* also further fills the seeming statutory void, by providing that, wherever the provisions of any statute refers to the *FHC*, *FCTHC* and *HC*, in so far the reference is in respect of jurisdiction, powers, practice and procedure: such provisions must be read to include the grant of such powers to the *NIC*, for the purposes of fulfilling its jurisdiction, as originally granted by the *NICA*, but now by the *Constitution*. In this wise, S. 54(2)(a)&(b) of the *NICA* also takes care of erudite Olawoyin's [supra] opinion that the *NIC* lacked the power to enforce arbitral awards in labour matters due to its non-inclusion[52] in the *Arbitration and Conciliation Act* [*ACA*] as one of the courts that can enforce arbitral awards. The *NIC* would simply be read into any section of the *ACA* conferring jurisdiction on other courts than *NIC*. The purport of S. 54(2)(a)&(b) of the *NICA* is similar to S. 6(3) of the *Constitution* espoused earlier, but in a more direct form that obviates any argument. The

[49] *Amaechi v. INEC & Ors* [2008] LPELR-446 (SC) 96-97, B-A; 189, F.
[50] Lewis Moore & Tony Swinnerton, "*Ship arrest in England & Wales*" in *Ship Arrest Practice* [Third Ed.] at www.shiparrest.com [accessed Oct 8, 2022].
[51] Ibid.
[52] S. 57(1) of the *Arbitration and Conciliation Act*.

combined effect of SS. 6(3), 6(6)(a), 254D, 315(1) & 287(3) of the *Constitution* along with SS. 13-19 & 54(2)(a)&(b) of the *NICA* shows that, the *NIC* has access to all necessary powers, as the *FHC*, to make any necessary order in furtherance of its maritime labour jurisdiction, while Order 1, Rule 9(1) of the *National Industrial Court of Nigeria* [*Civil Procedure*] *Rules, 2017* [***NIC Rules***], which gives the *NIC* the liberty to borrow from any court's rules, in case of vacuum in its rules, seals off the argument of inhibition on *NIC* to exercise its exclusive civil maritime labour jurisdiction simply because, its extant rules have no cognate provisions on admiralty. The *NIC* can borrow a leaf from the cognate *FHC Rules* or from any relevant rules of court or even invent rules to meet any exigencies for which no rules are provided by virtue of its inherent powers and Order 1, Rule 9(1) of the *NIC Rules*.

This power granted the *NIC* by S. 54(2)(a)&(b) of the *NICA* only deferred to the *Constitution*, which now grants the *NIC* exclusive civil jurisdiction over all labour claims thus, making it appositely applicable. Incidentally, the *Court of Appeal* has affirmed the efficacy of S. 54(2)(a)&(b) of the *NICA* in *CBN v. Eze & Ors*[53]. S. 254D-(1) of the *Constitution* says, the *NIC* shall have all the powers of a *HC* for the purposes of effectively exercising its jurisdiction, while S. 254D-(2) of the *Constitution* says, additional powers than already conferred by the *Constitution*, may be conferred by the *NASS* on the *NIC*, for the purposes of better exercising its jurisdiction. Thus, when S. 254D-(1)&(2) of the *Constitution* is construed along with S. 315(1) of the *Constitution*, which saves the provisions of SS. 13-19 & 54(2)(a)&(b) of the *NICA,* and both are read in conjunction with SS. 1, 5(3)(c)&(6) and S. 7 of the *AJA* and 66 of the *MSA*, both of which now impliedly grant to the *NIC*, the additional statutory powers of pre-judgment in-rem arrest of ships, as liens and, the power to sell same, in order to make efficacious its jurisdiction on maritime labour claims, all doubts, arising from the misconceived absurdity, are completely removed on the exclusivity of the *NIC's* civil jurisdiction on all maritime labour causes. S. 287(3) of the *Constitution*, which burdens all persons, lower courts and authorities to enforce *NIC's* decisions, further complements this. By virtue of S. 287(3), once the *NIC's* decision is within jurisdiction, the issue of not being conferred with certain power by a statute becomes otiose and subsumed by S. 1(1)&(3) of the *Constitution* and, the doctrine of covering the field, which SS. 1(1)&(3), 6(3), (6)(a) and 287(3) signify. Such statute denying *NIC* powers in that regard would be void to the extent of its inconsistency with the overriding constitutional provisions cited above[54].

In effect, by the combined effects of SS. 254D-(1) of the *Constitution*, SS. 1, 5(3)(c)&(6) and 7 of the *AJA* and, S. 66 of the *MSA*, the *NIC* has all the powers [common law and statutory] conferred on the *HCs*, of which the *FHC* is one, besides the law that, the *NIC* must be read into the provisions of any statute that grants jurisdiction and powers to the *FHC*, *FCTHC* and *HC* as enjoined by S. 54(2)(a)&(b) of the *NICA*. The *NIC* therefore, must be read as included in the relevant provisions of the *AJA* and *MSA* that give the *FHC* powers of in-rem arrest of ships over admiralty labour claims. It thus has full statutory powers of arrests of ships as liens in in-rem actions, just like the *FHC* continues to have over all other maritime matters, aside admiralty labour causes, still retained in it. Exercise of powers, both statutory and inherent, are concurrent to all superior courts by virtue of SS. 6(3), 6(6)(a) & 287 of the *Constitution* because, they are there to lubricate their different jurisdictions alike. That takes the sail out of the arguments that; the *NIC* could not exercise the statutory powers of in-rem arrests of ships for the purposes of its maritime labour jurisdiction. It can, as has been shown. Now that it is clear the *NIC's* powers, are exactly the same with those of the *FHC*, to make orders of in-rem pre-judgment arrest of ships, it follows that, the arguments of the *FHC* erudite apologists on the alleged absurdity and the alleged negative economic implications on merchant shipping purportedly arising from the alleged lack of power of in rem pre-judgment arrest of ships as lien, in the *NIC*, are fallacious.

It has also been argued that, wages of seamen formed part of the admiralty jurisdiction because, S. 254C-(1)(a)&(k) of the *Constitution*, in granting jurisdiction on labour matters to the *NIC* did not specifically mention wages of seamen, but general wages, whereas, S. 2(3)(r) of the *AJA* directly mentioned seamen wages, as such, excludes the wages mentioned in S. 254C-(1)(k) of the *Constitution* because, the specific mention of one thing, excludes those not mentioned. The *Court of Appeal* has dealt with an aspect of the answer, by holding that, the *AJA* and *MSA*, being ordinary statutes, could not struggle with S. 254C-(1)(a)&(k) of the *Constitution*, which conferred exclusive civil jurisdiction over all labour matters on the *NIC*. The regnant rule is that, the rules of interpretation are inadmissible[55] to vary the clear words of a *Constitution* and that; only internal aids in the *Constitution* itself, could be used to vary the literal meaning of words used in the *Constitution*[56]. Therefore, the rules of interpretation cited by the pro-*FHC* writers, could not be used to bolster the provisions of an ordinary statute to take away from the exclusive liberal civil jurisdiction granted the *NIC* over all types of labour/employment relations and all

[53] Unreported Suit No. CA/A/344/2015 – delivered Sep 15, 2021.
[54] *INEC v. Musa* (2003) LPELR-24927 (SC) 36-37, D-C.
[55] *Adesanya v. FRN & Anor* (1981) LPELR-147 (SC) 16-17, B-D.
[56] *Abegunde v. The Ondo State House of Assembly & Ors* (2015) LPELR-24588 (SC) 60, A-C and. *Ifezue v. Mbadugha & Anor* (1984) LPELR-1437 (SC) 26-27, F-C.

types of labour wages/remunerations in an unmistakable manner.

By using the word "any" S. 254C-(1)(a)&(k) of the *Constitution* demonstrates unmistakable intention to cover all types of labour relations and wages, both special and general. Logic supports this view in that, it would be unheard of, to imagine that, the provisions of ordinary statutes would be relied on, to restrict the logical extent of the exclusive civil jurisdiction expressly granted *NIC* by the *Constitution* and, which does not invite any danger of absurdity as has earlier been ably demonstrated in this article. It is in this wise that, the argument canvassed that, the *AJA* and *MSA* delimit the extent of admiralty jurisdiction granted by S. 251(1)(g) of the *Constitution*, cannot be right, when it concerns the interpretation of the limits specified in these ordinary statutes, to take away the exclusive civil jurisdiction the *Constitution* clearly and directly granted the *NIC*. Even if the arguments that, the *AJA* and *MSA*, by spelling out the extents of the admiralty jurisdiction of the *FHC* and the authorities cited thereto were correct for other purposes, they would not be correct, when it comes to using them to cut off parts of the exclusive civil jurisdiction of another superior court duly conferred by the *Constitution* because, the *AJA* cannot confer jurisdiction on the superior courts in Nigeria, only the *Constitution* can[57]. All the authorities cited, especially *Bronik Motors Limited v. Wema Bank Limited*[58] on deemed incorporation of the *AJA* by S. 251(1)(g) of the *Constitution* and, *Savannah Bank Limited v. Pan Atlantic Shipping & Transport Agency Ltd*[59] on concurrency of the jurisdictions of the *FHC* and the *NIC* on admiralty labour claims, did not deal with situations where an ordinary statute was interpreted by the *Supreme Court* to limit a non-obstante exclusive jurisdiction duly conferred by the *Constitution* on a superior court, as is the case with *FHC* and *NIC*, whereby the *NIC* is conferred with exclusive non-obstante all-embracing civil jurisdiction on all aspects of labour/employment causes. So, these authorities are not relevant in the instant scenario.

In the interpretation of new statutory provisions like S. 254C-(1)-(4) of the *Constitution*, regard must not be had to what the law used to be but only to what it is now, by giving them the plain meanings they suggest uncoloured by prejudice from the former position of things[60]. It is the reluctance to follow this sound precept of the law against prejudice that is partly the cause of the problem. S. 254C-(1)(a)&(k) of the *Constitution* is a new amending section, which comes after S. 251(1)(g) of the *Constitution* and clearly demonstrates amendment of all the other provisions of the *Constitution*, especially S. 251 of the *Constitution*, which it specifically named non-obstante, to find unobtrusive accommodation. So, where the plain interpretation of S. 254C-(1)(a)&(k) of the *Constitution* is inconsistent with that of S. 251(1)(g), there cannot be any argument, it means S. 254C-(1)(a)&(k) has amended it[61]. This simply means that, even where there is an alleged ambiguity, it must be resolved in favour of S. 254C of the *Constitution* because, that is the purport of the non-obstante clauses that surfeited the provisions of the section. This is more poignantly so when it comes to ordinary statutes. Ordinary statutes cannot interfere with the jurisdictions of the superior courts in Nigeria[62]. In effect, the *Court of Appeal*'s decision that, the provisions of S. 2(3)(c)-(d)&(r) of the *AJA* are void, is very sound, by virtue of the doctrine of covering the field, which forbids, even mere duplications in other statutes, of fields fully covered by constitutional provisions[63].

The arguments that, because, S. 254C-(1)(a)&(k) of the *Constitution* did not specifically mention seamen wages and admiralty labour claims, seafarers' wages and maritime labour claims remained within the exclusive civil jurisdiction of the *FHC* and not the *NIC*, is actually self-defeating. By the same logic, the *FHC* is divested of jurisdiction in favour of the *NIC* because, while S. 254C-(1)(a)&(k), which gives the *NIC* exclusive civil jurisdiction, specifically mentioned "**any** labour, employment…" and wages of "**any**…worker", which implied inexhaustive inclusiveness, S. 251(1)(g) of the *Constitution*, which grants exclusive admiralty jurisdiction to the *FHC* did not specifically mention wages, workers, labour and employment at all. By the same logic, the *FHC* is much more barred from adjudicating these, even though, arising from admiralty, since S. 251(1)(g) of the *Constitution*, which conferred it with exclusive civil jurisdiction did not mention workers, wages and labour. The argument forgot that, S. 251(1)(g)&(k) of the *Constitution* did not directly confer the *FHC* with admiralty/civil aviation labour jurisdiction and jurisdiction over seafarers' wages or civil aviators' wages and that, it is actually the *AJA* that did. And the *AJA* cannot be heard to contend with the express non-obstante provisions of S. 254C-(1)(a)&(k) of the *Constitution* to extend the jurisdiction of the *FHC* and, whittle down that of the *NIC* duly conferred by the *Constitution* [64]. Only the *Constitution* itself can do that[65].

It should be borne in mind that, the research has earlier shown that, the *Constitution* did not incorporate the *AJA* and that; as such, the *AJA* is like any other ordinary statute, subject to the invalidating powers of the courts under SS. 1(1)&(3) and 315(3)(d) of the *Constitution*. There is no vacuum at all in S.

[57] *NUEE v. BPE* op. cit.
[58] [1983] NSCC 226; [1983] 6 S.C. 158.
[59] [1987] 1 NWLR (Pt. 49) 212.
[60] *Sahara Energy Resources Limited v. Oyebola* op. cit.
[61] *Ibid*.
[62] *NUEE & Anor v. BPE* (2010) LPELR-1966 (SC) 40-42, F-D.
[63] *INEC v. Musa* op. cit.
[64] *NUEE v. BPE op. cit.*
[65] Ibid.

254C(1)(a)-(b)&(k) of the *Constitution*, to warrant being filled up by another statute, as it mentions all generic types of labour/employment relations, together with all labour/employment related statutes and used incorporative words to capture the incidentals. It also covered all the generic types of wages by using similar words of inexhaustibility to capture all incidentals to wages. So, it looks strange to suggest that, S. 254C should embark on the unfeasible assignment of naming labour in relation to all types of places of work, like: naval [admiralty] labour, air-force labour, army labour, teachers' labour etc. or wages in relation to the peculiar works like: military wages, teachers' wages, etc. before their full constitutional imports could be deduced, and come to think of it, in contest with ordinary statutes!

Be it recollected that, it was because of the void in S. 7(g) of the *FHCA*, which S. 230(1)(b) of the *1979 Constitution* controversially and doubtfully incorporated that, the *AJA*[66], as a military Decree, needed to be promulgated in 1991, to clearly give the *FHC* admiralty jurisdiction and to delimitate the extent of its admiralty jurisdiction, to include labour/employment matters of seafarers and a host of other causes. Before then, the *SHCs* exercised jurisdiction on such matters. It must be noted that, even the *FHCA* itself came into existence originally via military Decree too. With the enactment of S. 251(1)(g) of the *Constitution*, which now directly gives admiralty jurisdiction to the *FHC*, the situation has become worse for the *AJA* because, the *AJA*, which, as a military decree, had superiority over the *1979 Constitution*, had, in its SS. 1&2, clearly specified what admiralty jurisdiction covers, and this was not replicated in S. 251(1)(g) of the *Constitution*, which now confers the *FHC* with exclusive admiralty jurisdiction and therefore, fully covers the extent of its admiralty jurisdiction and consequently, supersedes SS. 1&2 of the *AJA*, which is now an ordinary statute by virtue of SS. 1(1)&(3) and 315(1)&(3)(d) of the *Constitution*. And unfortunately, the *AJA*, not being the *Interpretation Act*, to which the *Constitution* subjects its provisions for interpretation[67], cannot interpret the provisions of S. 251(1)(g) of the *Constitution* to take away the exclusive non-obstante all-embracing civil jurisdiction on all types of labour causes/ wages/salaries, including maritime labour causes/ wages/salaries, duly conferred on the *NIC* by S. 254C-(1)(a)-(b)&(k) of the *Constitution*, delimitation of the admiralty jurisdiction of the *FHC*, which the *AJA* attempted, being an aspect of interpretation.

What S. 251(1)(g) of the *Constitution* did was to reproduce verbatim the provisions of S. 7(g) of the *FHCA*, leaving out completely, the provisions of the *AJA*. This means S. 251(1)(g) of the *Constitution* reverted the *FHC* back to the position it was under the *1979 Constitution*. It simply means the areas of admiralty jurisdiction [labour and wages of labour] not covered by S. 251(1)(g) of the extant *Constitution* before the enactment of the *Third Alteration Act*, reverted back to the *SHCs* by dint of the decision of the *Supreme Court* in *NUEE & Anor v. BPE* [supra] that, an ordinary statute cannot derogate from the jurisdiction of the *SHCs*. The logic of this reasoning underpinned the *Supreme Court's* decision, as recent as 2018, in *TSKJ Nigeria Limited v. Otochem Nigeria Limited*[68] that, it is not in all causes involving the hire of a ship that the admiralty jurisdiction of the *FHC* is invoked and that, matters of simple contracts, disputes on non-payment of ship-hire fees, are not covered by the *AJA*. Though, it is conceded that, the *Supreme Court* actually considered S. 2 of the *AJA*, which defined maritime claims and held that, it did not cover simple contracts, in the circumstances of the case, whereas, S. 2(3)(r) of the *AJA* actually covers wages of seafarers, but this does not detract from the ratio in *NUEE & Anor v. BPE* [supra] that, an ordinary statute cannot wrestle jurisdiction from the *SHC*. In like manner, the *AJA* cannot wrestle jurisdiction from the *NIC*, a superior court: that is the logic.

The *SHCs* retain residual jurisdiction on all subjects for which no other superior court is constitutionally conferred with jurisdiction. This is why, as unintentionally pointed out by erudite Olawoyin [supra], the *Court of Appeal* and *Supreme Court* have repeatedly held that, the admiralty jurisdiction of the *FHC* does not extend to matters of simple contracts[69]. The maxim applies: the express mention of one thing is the exclusion of those not mentioned[70]. S. 251(1)(g) of the *Constitution* spelt out the extent of the extant admiralty jurisdiction of the *FHC* and left out maritime labour claims and wages of seafarers in their entirety and, incidentally, the *AJA* no longer enjoys the supremacy it previously enjoined under military interregnum. Therefore, going by the state of the extant S. 251(1)(g) of the *Constitution*, the *FHC* even actually lacked jurisdiction over maritime labour claims before the advent of the *Third Alteration Act* because, as the *Supreme Court* held in *NUEE & Anor v. BPE* [supra]: "the jurisdiction of State High Court can only be restricted by the provisions of the 1999 Constitution[71]…" and, not the *AJA*, an ordinary statute. It means the *FHC* had actually been unlawfully exercising this jurisdiction against the *SHCs*, even before the enactment of the *Third Alteration*

[66] SS. 1 & 2 of the *AJA*.

[67] S. 318(4) of the *Constitution*. By specifically providing that the *Interpretation Act* is applicable to the interpretation of the provisions of the *Constitution*, all other statutes are excluded from interpreting the provisions of the *Constitution* by dint of *expressio unius est exclusio alterius* rule.

[68] (2018) 11 NWLR (Pt. 1630) 330.

[69] *Federal University of Technology Akure v. BMA Ventures (Nig) Ltd* (2018) LPELR-44429 (CA); *Savannah Bank Limited v. Pan Atlantic Shipping & Transport Agencies & Anor* (1987) 1 NWLR (Pt. 49) 212; (1987) LPELR-SC 139/1985 and, *TSKJ Nigeria Limited v. Otochem Nigeria Limited* op. cit.

[70] *Jegede & Anor v. INEC & Ors* (2021) LPELR-55481 (SC) 74, A-E.

[71] *NUEE & Anor v. BPE* op. cit. 41, A-B.

Act simply because, this legal position escaped the attentions of jurists. This must be the position at the immediacy of the *Constitution* in 1999, which shared no rivalry with military decrees for superiority, all military decrees, having become ordinary Acts of the *NASS* at the inception of the *Constitution* in 1999 by virtue of S. 315(1) of the *Constitution*. So, SS. 1&2 of the *AJA* could not have conferred civil maritime labour jurisdiction, which the *FHC* actually lacked constitutionally. This is what erudite Olawoyin [supra] unintentionally hinted at when he said the *FHC* would lack jurisdiction if admiralty labour claims are treated as simple contracts; the only thing that connect maritime labour claims with admiralty, being the need to arrest ships in rem.

Now, S. 254C-(1)(a)-(b)&(k) of the *Constitution* directly and specifically gives *NIC* jurisdiction over all types of employment/labour claims and wages of all types of workers/employees. It means, in line with the *Supreme Court's* ratio in *NUEE & Anor v. BPE*, S. 254C-(1)(a)-(b)&(k) of the *Constitution* exclusively conferred on the *NIC* non-obstante civil jurisdiction on all labour/employment matters and thus, effectively wrestled the jurisdiction from the *SHCs* and, not from the *FHC*, which never had the jurisdiction at the inception of the *Constitution* in 1999 in the first place. Respectfully, it is therefore totally untenable, to argue against the clear non-obstante constitutional provisions of S. 254C-(1)(a)-(b)&(k) of the *Constitution* in the absence of any other direct constitutional provisions whittling down the all-encompassing provisions[72]. In effect, it does not matter whether maritime is attached to labour claims and wages of labour, the important thing is that, they are labour claims, which S. 251(1)(g) did not cover. It follows too, that, there is actually no conflict between the provisions of SS. 251(1)(g) and 254C-(1)(a)-(b)&(k) of the *Constitution*, to even warrant the interpretative invocation of the non-obstante clauses of S. 254C-(1)(a)-(b)&(k) of the *Constitution*, aside the other clarifications earlier made.

The argument that, the *NIC* was not established to effect radical changes in the *status quo ante* with regard to the *FHC*, but just to make it a superior court, mouthed by erudite Olawoyin and others, seemed not to appreciate the essence of the *Third Alteration Act*. The *Third Alteration Act* actually set out to effect radical changes in the jurisdictional *status quo ante* and it would be difficult to fathom how it could be logically argued that its clear intendment to excise completely the *FHC's* jurisdiction on labour/employment matters does not extend to maritime labour/employment claims. There is no argument that the *NIC* is a single-subject matter jurisdiction Court. Why would the *Third Alteration Act*, which sets out to make it a specialised court over that single subject matter, rationally leave a portion of the single subject matter to another court of general jurisdiction? It does not sound rational. If it must be so, it cannot be by way of clumsy interpretation but must be by clear constitutional exclusion of that special aspect. And which special aspect of the single subject matter would still be better treated by a general jurisdiction court, which the *FHC* is, than the specialisation of the adjudication of the whole composite single subject matter before a special court specially created for the whole composite single subject matter? It is axiomatic that there could logically be none. The *Third Alteration Act* reestablished the *NIC* to achieve both aims of changing the *status quo ante*, by making the *NIC* a superior court and, making it a truly specialised Court, by excising completely employment/labour jurisdictions from the *FHC*, *FCTHC* & *SHCs* in favour of the *NIC* and, S. 254C-(1)(f)-(h)&(2) of the *Constitution* further answered the question, as the provisions effected radical changes in labour law in Nigeria and, gave the *NIC* exclusive jurisdiction to effectuate them, and also made the *NIC*, truly the first and only specialised court in Nigeria.

Hence, there is no other method by which these objectives could be achieved than by subjugating the provisions of SS. 251, 257 & 272 of the *Constitution* to the provisions of S. 254C-(1)&(2) of the *Constitution* in order to avoid confusion arising from overlapping of jurisdictions. The latest of the courts, that is the *NIC*, and the latter of the provisions, that is, S. 254C-(1)&(2) of the *Constitution*, must clearly and effectively subjugate the earlier provisions, to have an existence completely divorced from SS. 251, 257 & 272 of the *Constitution*, in order to avoid controversies arising from overlapping of jurisdictions. That is the only rational way to create two separate courts of coordinate but mutually exclusive jurisdictions. Be that on maritime labour claims.

Having carefully examined the case of maritime labour claims, we shall now examine the case of civil aviation labour claims. The case of civil aviation labour claims is slightly a different kettle of fish. And the fact that, S. 251(1)(k) of the *Constitution* just tersely provides that, the *FHC* has exclusive civil jurisdiction over: "aviation and safety of aircraft" without further explanation is in focus. Ordinarily, "aviation and safety of aircraft" do not include labour relations in aviation. *Aviation and safety of aircraft* deal with the rules and regulations governing safe flights, the enforcement and, sanctions for breaches[73]. S. 1(1)(c) of the *AJA* that grants the *FHC* prior jurisdiction over aircraft seems to be talking about waterborne aircrafts[74] and did not talk at all, about civil aviation labour relations and its incidents, like it did for admiralty labour relations. No statutory provision talks about labour relations in aviation, except S. 7 of the *CAA*, which talks about

[72] *NUEE & Anor v. BPE* op. cit.

[73] The whole of the *CAA* did not make any provision for aviation workers.

[74] S. 2(3)(j) of the *AJA*.

power to recruit staff for the *Civil Aviation Authority*. These are not staff of aircrafts and, incidentally, S. 63(1) of the *CAA* grants jurisdiction to the *FHC* on the offences created under the *CAA* but left out the court with civil jurisdiction on labour relations of its staff. It comes to be that, since S. 251(1)(k) of the *Constitution* did not talk at all about labour/employment relations in aviation or labour/employment disputes arising therefrom and, S. 1(1)(c) of the *AJA* is deemed to talk only about waterborne aircrafts by virtue of S. 2(3)(j) of the *AJA*, and not, at all about civil aviation or labour and wages in aviation, the *NIC* logically has exclusive civil jurisdiction over labour relations in aviation, inclusive of civil aviation, as duly conferred on it by S. 254C-(1)&(2) of the *Constitution*, without any ado. Following the previous arguments too, no ordinary statute can wrestle this jurisdiction from the *NIC*. The *NIC*, *ipso facto* the previous arguments, also has the powers to make any relevant orders coterminous with its jurisdiction exercised in *vires* thereto.

After all, whether it is maritime labour or military labour or aviation labour claims or police labour claims or whatever labour claims, the fact remains that, they are labour claims, regardless of the adjectives attached and, would remain so without the appellations. All labour relations are parts of specific human endeavours; labour being the midwife of all human endeavours, cannot be an end by itself. It must therefore be or exist in relation to an endeavour and for that reason, must be preceded by an adjectival appellation. The agents of labour are workers [human beings], the reward of labour are wages. The nature of labour relations and challenges [disputes], remains constant in all endeavours. Lifting the veil of peculiarities, all workers face the same challenges since time immemorial. And these are the incidences that the *NIC* is established to adjudicate, with cutting-edge labour expertise, and, not shipping contracts and commerce on the high seas, which are for the *FHC*. Attaching appellations to a particular labour relation cannot therefore be a veritable reason to take it out of the labour court. S. 254C-(1)(a)-(b)&(k) of the *Constitution* has unambiguously fully covered the field of all labour/employment claims regardless of the place of work.

If we inordinately cling to the appellation of maritime or admiralty labour claims, instead of simply, labour claims, then, since maritime/admiralty labour claims nonetheless remain labour claims, notwithstanding the appellation of maritime/admiralty attached to them, the *NIC* continues to have exclusive civil jurisdiction over maritime/admiralty labour claims and therefore, exercises part of the maritime/admiralty jurisdiction hitherto exercised by the *FHC*, so far, it is for the purposes of adjudicating labour claims, just like it adjudicates military and police labour claims, without the tag –'military' or 'police' – divesting it of jurisdiction. There is nothing incongruous in that. That has been the nature of the dichotomy between the jurisdictions of the *FHC* and the *NIC*. Parts of the hitherto jurisdiction of the *FHC,* were cut off in favour of the *NIC*, while the *FHC* continues to exercise jurisdiction in the vast remaining parts: ditto between the *FHC* and *SHC*. For example, while the *FHC* exercises exclusive civil jurisdiction on banking and corporate matters, the *SHC* still retains residual jurisdiction on contractual relationships between bankers and customers[75], which undoubtedly are a part of banking.

While each type of work might have some peculiarities that would demand special measures, since they still remain labour, it is still far better for all types of labour/employment relations to be coalesced into a coherent whole and ceded to a specialized labour court, which the *NIC* is, than for a section of the labour force to be ceded to another court, manned by non-specialist general jurisdiction judges, which the judges of the *FHC* are. To reason otherwise, would deny the seamen and civil aviation workers the advantages of the expertise of the specialized labour court, specifically created and devoted entirely to only labour issues. It is indubitable: specialization is the invisible handmaid of efficiency and efficacy. Thus, the nation and the international community, which the *Third Alteration Act* had in mind, via the applications of international best practices[76] and international labour standards[77], would definitely receive better service in all labour matters being consigned to the specialized labour court, which the *NIC* is, to receive the same measure of specialized adjudications in all labour matters. To this extent, the fear of economic jeopardy in the grant of exclusive civil jurisdiction to the *NIC* on admiralty labour disputes on merchant shipping is totally unfounded.

It is actually the erroneous consignment of jurisdiction to the *FHC* in this regard that is injurious to commerce in merchant shipping and the national economy because, the stakeholders, the nation and the international community will lose the advantages of the *NIC's* expertise in that regard. Any lingering doubt is put to rest by the direct and unequivocal statement of the Nigerian President on March 4, 2011 when the *Third Alteration Act* was assented:

> "It is my hope that with the Constitutional establishment of the National Industrial Court of Nigeria, we have institutionalized the process for ***quick, fair and efficient*** resolution of disputes relating to labour, employment, industrial relations… *This Court is conferred with exclusive jurisdiction in those areas considered critical to the sustenance of our economy and industrial development*. Its effective discharge of its mandate will serve; not only to promote industrial harmony, but also to boost the

[75] *FBN Plc v. Standard Polyplastic Industries Ltd* (2022) LPELR-57684 (SC) 40, A-F and the proviso to S. 251(d) of the *Constitution*.
[76] S. 254C-(1)(f) of the *Constitution*.
[77] S. 254C-(1)(h) of the *Constitution*.

confidence of both local and foreign direct investors in our national economy."

The *Supreme Court* reinforced and confirmed the validity of the above when it held in *Skye Bank v. Iwu* [*supra*] that:

> "The Third Alteration to the 1999 Constitution…recognised the Court as a specialized Court and *provided in Section 254C the exclusive jurisdiction of the Court over* ***all labour and employment issues***.
> Specialized Courts of limited and exclusive jurisdiction are seen as fulfilling a growing need for expertise in increasing areas of law. The resolution of labour and employment disputes is guided by *informality, simplicity, flexibility and* ***speed***. *Specialized business Courts* will no doubt play an important role in the economic development of the country.
> *It is from these perspectives that Section…254C(1)…of the Constitution of the Federal Republic of Nigeria should be interpreted*."

The above excerpts, the first from the country's President, who assented the *Third Alteration Act* and, the second, from the *Supreme Court*, the final oracle on what the law is, put to final rest, the fallacious arguments that, ceding exclusive civil admiralty labour jurisdiction to the *NIC* is inimical to the national economy. We cannot have better testimonies to the central place of the *NIC* to the economic development of the nation in all aspects of its jurisdiction, including maritime labour claims and civil aviation labour claims. In construing the *Third Alteration Act*, we must therefore also constantly bear this fact in mind. That is why the *Supreme Court* says; the *NIC* is a *specialised business court* with exclusive jurisdiction "*over all labour and employment issues*", whereas, the *FHC* is not a specialised business court, but a court of general exclusive jurisdiction on federal matters. And *NIC's* businesslike nature, no doubt, redounds better on merchant shipping/commercial aviation than the *FHC's* general exclusive federal jurisdiction.

In fact, because of the peculiar nature of seafaring and aviation works, the *ILO*, a world-renowned organisation totally devoted to decent work agenda and the welfare of labour, has devoted the most attention to the labour relations abuses therein, with a whopping 37 conventions[78] for seafarers alone and, similar measures for civil aviation workers by the *ILO* and, *International Civil Aviation Organisation* [***ICAO***], another agency of the *UN*, culminating in the March 15, 2022 cooperation agreement between the *ILO* and *ICAO*[79]. Seafarers and civil aviation workers actually need the attention of a specialist labour court like the *NIC* than other type of workers. The fact that the *ILO* had devoted substantial attention to admiralty/civil aviation labour relations is a signal that, the *NIC* set up specifically to interpret, apply and enforce *ILO* instruments[80], is the Court specially cut out for the adjudication of admiralty/civil aviation labour disputes and, not the *FHC*.

The sectors also need speedy dispensation of justice than most of the other sectors because of the: huge financial losses involved in tying down ships and aircrafts for long, the negative impacts on international commerce and, the very peculiar trans-boundary nature of the works/workers in the sectors, reinforcing the fact that, delay is dangerous, which could better be avoided at the *NIC* than *FHC* because of the expertise of *NIC's* judges and *NIC's* special rules, which dispense with delay and technicalities and, promote quick and efficient dispensation of justice than the regular common law courts[81], which the *FHC* is. And these would assist the growth of international commerce in the merchant shipping/civil aviation sectors better. The *Supreme Court* testified to the above when it opined on the *NIC* thus: "The resolution of labour and employment disputes is guided by *informality, flexibility and* ***speed***[82]".

Besides, only the *NIC* is imbued with the exclusive non-obstante civil jurisdiction to apply international labour-related conventions[83] and standards[84] in the resolution of labour disputes. It is also only *NIC* that is imbued with exclusive civil jurisdiction to eschew unfair labour practices[85] and, the only Court burdened with the mandatory sacred duty to apply international best practices[86] in the adjudication of labour cases thus, ensuring that, the *NIC* is constantly abreast of cutting-edge issues in the adjudication of labour disputes; making Nigeria's adjudication of labour relations disputes cosmopolitan. *NIC* judges are equally and, singularly amongst all the superior courts in Nigeria, extraordinarily equipped with the expertise in this area of the law by the additional specialisation and expertise in labour law and employment relations and considerable experience of the labour relations market in Nigeria, as additional prerequisites, aside the general prerequisites, for judgeship of the *NIC*[87], these additional requirements which are absent for the appointments of judges of all the other superior courts of first instance in Nigeria, which just require general legal practice experiences of the requisite length of time for the appointment of their judges. The same thing is applicable to the appellate courts [*Court of Appeal* and *Supreme Court*], except with respect to Customary and Islamic laws.

[78] Recently consolidated into *Maritime Labour Convention 2006* [***MLC***] – see ILO, "*International Labour Standards on Seafarers*" at https://www.ilo.org [accessed Nov 03, 2020].
[79] ILO, "*Important cooperation agreement concluded between the ILO and ICAO*" [posted March 17, 2022] at https://www.ilo.org [accessed Jan 08, 2023]. See also "*Acts and occurrences onboard aircraft*" at https://britanica.com [accessed Nov 09, 2020].
[80] S. 254C-(1)(f)-(h)&(2) of the *Constitution*.
[81] Unreported *Court of Appeal's* decision in *Suit No. CA/IL/20/2021: Adegboyu v. UBA* [Delivered April 14, 2022].
[82] *Skye Bank v. Iwu* op. cit 146, D-E.
[83] S. 254C-(2) of the *Constitution*.
[84] S. 254C-(1)(h) of the *Constitution*.
[85] S. 254C-(1)(f) of the *Constitution*.
[86] Ibid.
[87] S. 254B-(3)&(4) of the *Constitution*.

Ceding exclusive civil jurisdiction to the *NIC,* a constitutionally well-structured specialised court, on all labour causes, including admiralty/civil aviation labour disputes, would definitely, without further proof, make Nigeria attractive to international commerce in merchant shipping/civil aviation thus, furthering national economic growth and development. Unwittingly ceding jurisdiction to *FHC*, which lacks jurisdiction and expertise in these areas of vital labour reliefs, would definitely negatively impact merchant shipping/civil aviation and *ipso facto*, the national economy. This is part of the factors that are not obvious to the proponents of the *FHC's* exclusive civil jurisdiction on maritime/aviation labour claims. By this, it is abundantly manifest that the opinion of learned Olawoyin [supra] and other writers of similar view that, granting all-encompassing labour jurisdiction that covers maritime labour claims to *NIC*, was unintended, and thereby led to absurdity, cannot be correct. It is clear it is the other way round. That is settled. Let us go further to examine the other factors.

d) International Labour Instruments, Doctrines of Unfair Labour Practices and International Best Practices: Implications on the Contest for Jurisdiction on Labour Matters Between the FHC and the NIC

To further show the incongruity of the views that, the *FHC* has civil jurisdiction over maritime/civil aviation labour claims because of its general admiralty/aviation jurisdiction, the question is: are workers onboard merchant vessels/civil aircrafts entitled to the benefits of the worker-friendly provisions of S. 254C-(1)(f)-(h), (L)(i) and (2) of the *Constitution*, like all other workers? These benefits are derived from international labour conventions & standards, constitutional protections against unfair labour practices & discriminations in labour relations and; power to apply international best practices in resolving labour claims and the relevant conventions made specifically for seafarers[88] and civil aviators[89]. If the answer is in the affirmative, then, which court is imbued with the expertise and exclusive civil jurisdiction to apply all these? The answer is, of course, the *NIC,* because; the *Constitution* specifically says[90] the *NIC* shall have the exclusive civil jurisdiction to apply these instruments in adjudicating labour claims, and the *NIC* is also solely created as a specialized labour Court, manned with cognate experts and experienced judges[91] to effectively and efficiently do these. And the *NIC*, exercising its expertise, vide the *Third Alteration Act*, has positively revolutionised labour/employment law and practice in Nigeria in several aspects[92], the benefits, which this teething problem has not allowed the merchant-shipping sector to enjoy, and possibly, the commercial aviation sector in the near future, unless urgent steps are taken to proactively and anticipatorily remedy the situation.

For example, compensations are now payable for: unfair dismissal, psychological tortures, mental agonies, discrimination and harassments[93]; collective bargaining agreements [***CBAs***] are now enforceable without incorporation into the individual contracts of employment[94], contrary to the previous situation under common law[95]; inordinately long suspension is now regarded as constructive dismissal[96] and, remedied with compensations[97]; the *NIC* can now pry into the internal affairs of employers to redress unfair labour practices and, can now order promotions in deserving cases of vindictive denial of promotions or discriminatory denial of promotions or order payment of adequate compensations where it is impracticable to order promotions or both[98]; etc., all which were not possible under the erstwhile common law regime. So much has the nature of the legal regime of labour relations been radically transformed by the *Third Alteration Act* that, the world under the present legal regime is totally strange to the previous world of common law, the essence of the *Third Alteration Act* being, mainly to whittle down the rigours of common law labour relations. The *FHC* has no jurisdiction to do all these, as it still lives in the bygone

[88] *International Labour Standards on Seafarers op. cit*. See also *Wages, Hours of Work and Manning (Sea) Convention, 1946* at www.ilo.or [accessed Oct 01, 2022].

[89] *Acts and occurrences onboard aircraft* op. cit.

[90] S. 254C-(1)(f)-(h), (L)(i) & (2) of the *Constitution*.

[91] S. 254B-(3)&(4) of the *Constitution.* Specific veteran expertise is demanded above being just a lawyer for ten years.

[92] *Sahara Energy Resources Limited v. Oyebola* op. cit; Tonye Krukrubo et al of Aluko & Oyebode, "*Innovative NICN judgments could rewrite labour law jurisprudence*", in *Lexocolgy* [Published Sep 22, 2021] at https://www.lexology.com [Accessed Jan 24, 2024; and Templars, "*Is Termination of Employment without Reason Still Valid in Nigeria?*" *Templars ThoughtsLab* [Published Jun 20, 2023] at https://www.templars-law.com [Accessed Jan 24, 2024].

[93] *Mrs. Folarin Oreka Maiya v. The Incorporated Trustees of Clinton Health Access Initiative Nigeria & Ors* [Delivered Nov 11, 2011] reported by the *ILO* at https://www.compendium.itcilo.org [Accessed 2024-01-27], in which the *NIC* held unlawful, the discrimination, harassment and dismissal of a pregnant woman because of her pregnancy and awarded punitive damages. See also *Aneke Arinze Leonard v. Ecobank Nigeria Limited* at https://nicnadr.gov.ng/judgment/details.php?id=8515 [Accessed Jan 27, 2024], where the *NIC* awarded 50Million punitive damages for abuse of employer's power over deductions from the claimant's salaries on employee loan.

[94] *Ezechukwu v. Tecon Oil Services Nigeria Ltd* [NICN/LA/27/2017 delivered March 25, 2021] at https://www.nicnadr.gov.ng/nicnweb/display2.php?id=5799 [Accessed Jan 27, 2024]; *Enugu State Government v. Odo* [NICN/EN/01/2022 Delivered March 08, 2022] at https://www.nicnadr.gov.ng/nicnweb/diplay2.php?id=6846 [Accessed Jan 01, 2024].

[95] *Osoh & Ors v. Unity Bank Plc* (2013) LPELR-19968 (SC) 24-26, E-A.

[96] *Ogbaka v. OHHA Microfinace Bank Ltd* [NICN/EN/03/2020 – Delivered Dec. 13, 2022] at https://www.nicnadr.gov.ng/nicnweb/display2.php?id=7514 [Accessed Jan 27, 2024].

[97] Ibid.

[98] *Mariam v. University of Ilorin Teaching Hospital Management Board & Anor* (2013) 35 NLLR (Pt. 103) 134-136, C-E and, *Elizabeth v. Alex Ekwueme Federal University, Ndufu Alike-Ikwo* [NICN/ABK/02/2021 delivered Dec. 15, 2021] 26, para 3.

world of pure common law, which implies that, seafarers and workers in civil aviation would be unwittingly debarred from these benefits in ceding jurisdiction to the *FHC*. That is an absurdity, which cannot be the constitutional intendment.

In fact, the *NIC* is the first and only specialised superior court in Nigeria. The *FHC* is not a specialised court but a court of exclusive general jurisdiction on all matters involving the *Federal Government* and its agencies, except labour. This fact should sink deep into the psyches of stakeholders in the legal and judicial circles. It is an error repeatedly made, to say *FHC* is a specialised court. It is not. It is a general jurisdiction court like the *SHC*, but exclusively for all federal matters, except labour and, land matters[99]. Hence, labour expertise is not constitutionally available[100] in the *FHC*. The further signal to the exclusive competence of the *NIC* in this regard against the general jurisdiction courts, like the *FHC* and the *SHC*, is further found in the special provisions in S. 254C-(1)(f)-(h) & (2) of the *Constitution*, SS. 12-19 of the *NICA*, the *NIC's Rules*[101], which further enabled the *NIC* to do a host of other things totally alien to the *FHC*[102]. The provisions of SS. 12-19 of the *NICA* are *sui generis*[103] in the adjudication of labour/employment disputes and, only the *NIC* is constitutionally empowered to exercise all the powers listed in SS. 12-19 of the *NICA*, which are *sui generis* to labour courts around the world and, applicable in Nigeria by virtue of S. 254C-(1)(f) of the *Constitution*, as examples of international best practices in labour relations. Note that, the *Constitution* directly granted exclusive jurisdiction and not ordinary power, to the *NIC* to exercise these powers[104]. Peculiarly, S. 254C-(2) of the *Constitution* directly and specifically mentioned non-obstante 'jurisdiction and power'. This implies that, any other court could not jointly exercise the power with the *NIC* thus, creating an exception to SS. 6(1)&(3) of the *Constitution* by reason of the non-obstante provisions of S. 254C-(2) of the *Constitution*.

By S. 12(2)(b) of the *NICA*, the *NIC* can bypass the *Evidence Act* in the interest of substantive justice; and as such, can admit pieces of evidence not admissible in the *FHC*[105], which might make a world of difference between the decisions of the two courts. The *NIC* can grant a range of reliefs, even if unclaimed, that are unavailable to the other superior courts of first instance in Nigeria by virtue of S. 254C-(1)(f)-(h) & (2) together with S. 254D-(2) of the *Constitution*, which combined to invigorate SS. 12-19 of the *NICA*. This is the international best practice in labour courts around the world and the *NIC* is bound to follow suit by virtue of S. 254C-(1)(f)-(h)&(2) of the *Constitution*[106]. *NIC's* civil procedure rules are tailored to avoid reliance on technicalities. Order 1, Rule 9(3) of the *NIC Rules* allows it to disregard technicality that can lead to miscarriage of justice. The result of these special provisions, as shown in the few instances already cited, is that, similar facts would normally produce different adjudicatory results between the two courts and that; if seafarers and civil aviators/aircrew are wrongly consigned to the *FHC*, they would be unwittingly denied the benefits of the civilizing ambience of these worker/employee-beneficent provisions over which only the *NIC* can exercise jurisdiction, by being tied to the apron of the common law; these radical provisions being essentially in favour of workers[107].

Even if it is granted that the *FHC* has limited jurisdiction to enforce international labour treaties, which is actually not the case, in view of S. 254C-(1)(h)&(2) of the *Constitution*, it would be tied to the apron of S. 12(1) of the *Constitution*, which would limit it to only ratified and domesticated international labour instruments, the limitation, from which S. 254C-(1)(f)-(h) & (2) of the *Constitution* has completely unfettered the *NIC*. The argument that, the *FHC* also has jurisdiction, by virtue of the *AJA*, *MSA* and *CAA*, to apply international labour instruments like the *NIC* in the realms of admiralty/civil aviation labour relations, is therefore highly erroneous because, it fails to take cognisance of the derogating effect of the *Third Alteration Act* – S. 254C-(1)(f)-(h)&(2) of the *Constitution*. With the ascendance of the *Third Alteration Act*, the jurisdiction of the *FHC* in that regard evaporates in favour of the *NIC*. By virtue of S. 254C-(1)(a)-(b), (f)-(h) & (2) of the *Constitution*, midwifed by the *Third Alteration Act*, only the *NIC* now has the exclusive vires to interpret and apply the provisions of all international labour instruments, international best labour practices and, all labour legislations.

The *FHC* is therefore, not equipped to dabble into the nuances of labour/employment jurisprudence, for which *NIC* is expressly created and constitutionally manned with the requisite labour law jurists. It is not generally known that, the gulf between what they do at

[99] *Commissioner of Police, Borno State & Anor v. Umar & Ors* (2016) LPELR-40819 (CA) 22-34, B-C.

[100] S. 250-(3)&(4) of the *Constitution*. All that is required to be judge of the *FHC* is being a lawyer with ten years general experience, compared to judges of the *NIC*, whom S. 254B-(3)&(4) of the *Constitution* says, apart from having the general qualifications, must additionally be highly experienced specialists in labour laws.

[101] Order 1, Rules 4, 5, & 9 & Order 5.

[102] *Sahara Energy Resources Ltd v. Oyebola* op. cit, in which the *Court of Appeal* upheld the exclusive power of *NIC* to utilise the innovative SS. 13-19 of the *NICA* to grant new radical reliefs not applicable under common law and, *Adegboyu v. UBA* op. cit, where the *Court of Appeal* upheld the radical power of the *NIC* to admit evidence against *Evidence Act* in the interest of justice. All these innovations are not available at common law and therefore at the *FHC*.

[103] Ibid.

[104] S. 254C-(1)(f)-(h) & (2) of the *Constitution*.

[105] *Adegboyu v. UBA* op. cit.

[106] *Elizabeth v. Alex Ekwueme University & Ors* op. cit. and *Mr. Godwin A. Ogbonna v. Nigeria Postal Service* [Delivered Jul 18, 2023] at https://nicnadr.gov.ng/judgment/details.php?id=8131 [Accessed Jan 27, 2024].

[107] *Sahara Energy Resources Ltd v. Oyebola* op. cit.

the *NIC*, as a specialized labour court and, what they do at the *SHC*, *FCTHC* and *FHC*, as general jurisdiction courts, still tied to the apron of the common law, is so wide and divergent that, almost in all instances, sharply divergent results would come out from adjudications on the same set of facts, from the two streams of courts; and the majority of which would be at the detriment of the seafarers and civil aircraft workers, unwittingly consigned to the *FHC*[108], such that, it would be unfair in the extreme, almost tending to inhumanity, to subject any categories of workers to such deprivations without just cause. That cannot be the intendment of the *Constitution*. The *Third Alteration Act* has completely revolutionised labour law such that, all the traditional overbearing employers' rights, to which the *FHC* would still be tied, in the event of its retaining admiralty labour jurisdiction, have been invaded in favour of the new lease of life granted workers/employees under the *Third Alteration Act*. Few examples have been given earlier.

The real purpose of the *Third Alteration Act* is to ensure that; all categories of workers, without exception, are beneficiaries of this new lease of life[109]. Thus, applying purposeful interpretation, as posited by the proponents of exclusive admiralty labour jurisdiction for the *FHC*, actually favours the *NIC* against the *FHC*, though, there is actually no basis for the invocation of any other cannon of interpretation, than literal rule, to the very clear provisions of S. 254C-(1)(a)-(b)&(k) of the *Constitution*. Its invocation is devoid of any absurd result, as evidently shown in the preceding discourses. In effect, it is conceding jurisdiction to the *FHC* that would actually produce the absurd result of injustice, in denying certain class of workers their constitutional right to fair and better labour justice innovated in S. 254C-(1)(f)-(h) & (2) of the *Constitution*. And it is trite that, where two options are available, the option that conduces to safeguarding justice and vested rights of people must be preferred[110], particularly that constitutional provisions enjoy broad benevolent interpretation[111]. But the issue of two options does not even arise. *NIC* has exclusive non-obstante civil jurisdiction over all labour causes without exception.

The incorrect ascriptions to the provisions of SS. 251(1)(g) and 254C-(1)(a)-(b)&(k) of the *Constitution* against their spirits, are therefore, with respect, wrong, as the provisions of S. 254C-(1)(a)-(b), (f)-(h), (k) & (2) of the *Constitution* do not contain any self-limiting clause; and thus, applicable to all workers/employees and labour/employment relations without exception. Unambiguous constitutional provisions are given literal and liberal interpretations in favour of the people, except the contexts otherwise clearly suggest[112]. To toe the line the *FHC* adopted in *Bains' case*, which is being championed by the pro-*FHC* writers, would mean, the *Constitution* is being interpreted to discriminate against some classes of workers, by denying these hapless workers the rights enjoyed by other workers, simply because of the fora of their works, without any justification. This would be directly contrary to S. 254C-(1)(f)-(g) of the *Constitution*, which forbids unfair labour practices, discrimination at work places and, discriminatory application of labour impinging statutes. The *NIC* has the sacred mandatory constitutional duty to prevent unfair labour practices and, to entrench international best practices in the world of labour/employment relations in Nigeria, which adherence to the tenets of the pro-*FHC* writers would violate with impunity. Apart from the foregoing, such unjustifiable discrimination against workers onboard merchant ships and civil aviation would also violate *Nigeria's* obligation under the *ILO Convention No. 111*, which forbids discriminatory employment practices thus, making Nigeria, a pariah in comity. It might be necessary to mention that, part of the reasons for which the *Third Alteration Act* ceded exclusive non-obstante civil jurisdiction to the *NIC* to apply *ILO* and other labour-related instruments, was to escape the annual queries Nigeria used to receive from the *ILO* for failing to implement *ILO* instruments[113].

It was felt that, with a court directly burdened with the sacred and solemn constitutional duties to apply and enforce these treaties, Nigeria would, with a masterstroke, solve the problem of perennially failing to meet its *ILO* obligations[114]. This background information goes a long way to further show that, the object of the *Third Alteration Act* was purely, to make the new labour legal regime applicable to all workers, employees and labour relations without exception and, to have all labour claims adjudicated in one labour court with the requisite expertise to apply these innovations to all workers without exception. It is in this regard that, the *ILO* said, courts saddled with jurisdiction on labour/employment matters and, jurists in that area of practice too, have crucial roles to play, in entrenching the best international

[108] Under common law, there is no compensation, beyond payment in lieu of notice, for wrongful termination, unfair dismissal and unfair labour practice. By virtue of the *Third Alteration Act*, damages [compensations] are granted for a host of things hitherto unheard of – see *Sahara Energy Resources Limited v. Oyebola* op. cit., where the *Court of Appeal* approved this new state of the law.

[109] *Presidential Assent Speech on the Third Alteration Act* op. cit. and *Skye Bank Plc v. Iwu* op. cit.

[110] *Egbebu v. The IGP & Ors* (2016) LPELR-40224 (CA) 50-51, F-B.

[111] *FGN v. Nganjiwa* (2022) LPELR-58055 (SC) 64-67, E-D.

[112] *Ladoja v. INEC & Ors* (2007) LPELR-8915 (CA) 16-17, E-D.

[113] B.B. Kanyip, *"Labour Justice and Socio-Economic Development: Welcome Remarks and Setting the Tone for the Public Lecture on the 'Role of Industrial Courts and International Labour Standards in Promoting Good Governance to Support Economic and Social Development"*, presented at the *2022/2023 Legal Year Celebrations of the National Industrial Court of Nigeria, October 6, 2022*, p. 4-5. See also, Eromosele Abiodun, "*Nigeria Ratifies 40 IMO, ILO Conventions on Maritime Safety*" [posted 4 years ago] at https://www.thisdaylive.com [accessed Jan. 09, 2023].

[114] Ibid.

practices in the labour regimes of their nations[115]. Therefore, the specialised labour court, which the *NIC* is, has a vital role to play in the area of maritime/aviation labour disputes adjudications to bring Nigeria in comity with the civilized nations of the world and thereby meet its obligations to the *ILO*.

How is the *FHC* going to fit into this role, if jurisdiction is wrongly ceded to it, with its total lack of expertise to appreciate the nuances of modern labour jurisprudence, including maritime labour jurisprudence and, its lack of jurisdiction to apply the international labour instruments that anchor these nuances? A court should not be hungry for jurisdiction but must guard its jurisdiction jealously for the public interests the court serves. No wonder that, even after the re-establishment of the *NIC* with exclusive civil labour jurisdiction, Nigeria still continues to receive queries on failure to implement international maritime instruments, which include maritime labour instruments, as the *FHC* unwittingly continues to adjudicate admiralty labour disputes while litigants and lawyers unwittingly continue to file maritime labour cases in the *FHC*. Dakuku Peterside[116], the then *Director-General of Nigeria Maritime Administration and Safety Agency* [***NIMASA***], while reporting at a seminar organised for judges, of which it was not stated that, the *NIC* judges were invited, said that, Nigeria recently ratified 40 conventions of both the *ILO* and *International Maritime Organisation* [***IMO***], covering maritime safety, **labour**[117] and marine **environment**[118] and that, *NIMASA* was working with stakeholders to ensure that, all queries raised in the *2016 IMO Audit Report on Nigeria Maritime Sector*, were addressed to boost Nigeria's chances of re-election into the *IMO General Council* and, ended up by making this frightening economic remarks regarding the damning effects of failure to implement international conventions in the Nigeria municipality:

> "It is a herculean task trying to sell Nigeria to the international community for investments, because in some cases the investors had raised the issue of *uncertainty in dispensation of litigation and implementation of laws*."

When it is not known that, the *FHC* lacks jurisdiction on labour matters and, lacks expertise on the application of *ILO* and other international labour conventions/instruments: why would this unsavoury state of affairs not continue to happen? From the horse's mouth, we have heard the direct negative impacts of ceding jurisdiction to the wrong court on the national economy. Be that as it may, to cede jurisdiction to *FHC* in labour matters would also mean that, labour cases in admiralty/civil aviation would lose the advantage of timeous adjudication, which only the expertise of the *NIC* and its less cumbersome procedures would have guaranteed, coupled with the fact that, the *FHC* cases would enjoy right of appeal to the *Supreme Court*[119], contrary to the *NIC* cases, which appeals end[120] at the *Court of Appeal*, to worsen the delay thus, negating one of the principal reasons the *Third Alteration Act* repositioned the *NIC* as an economic support court[121]. The basic reasons why the rights of appeal on civil labour cases emanating from the *NIC* stop at the *Court of Appeal* is the realisation that, labour cases cannot afford delay because, they touch directly on the economic nerves of the nation[122] and, are equally often about rights in *personam*, which die[123] with the owners and therefore, cannot afford to be delayed. It was thought that, quick dispensation of justice in the labour sector would encourage local and direct foreign investments and ginger economic growth[124]. This shows that, the argument that, ceding exclusive civil jurisdiction to the *NIC* on maritime labour claims would engender grave negative economic implications in the maritime/ merchant shipping sector, is actually turned on its head.

Besides, the fact remains that, S. 254C-(1)(b) of the *Constitution* gives exclusive civil jurisdiction to the *NIC*, to apply the provisions of all other statutes, apart from those expressly listed therein, relating to labour/ employment relations, conditions/environment of work and work places. From the moment of the ascendancy of the *Third Alteration Act*, the *FHC* lacked the jurisdiction to apply the provisions of the *AJA*, *MSA* and *CAA* on admiralty/civil aviation labour relations. From that moment, the *NIC* became the sole court with jurisdiction and expertise to apply all the cognate provisions of the municipal statutes and international conventions on maritime/civil aviation labour claims, without exception by virtue of the non-obstante S. 254C-(1)(f)-(h)&(2) of the *Constitution*. And to strengthen this, the *NIC* also has the sole jurisdiction to apply ratified, but undomesticated international conventions, while the *FHC* is still tied to the apron strings of S. 12(1) of the *Constitution* that, debars it from applying undomesticated international conventions.

This implies that, unwittingly ceding jurisdiction to the *FHC* in this wise will produce the absurd result of the *FHC* not being able to apply some relevant but

[115] "*International Labour Law and Domestic Law: A Training Manual for Judges, Lawyers and Legal Educators*" (ILO ITC, Turin, 1st Ed., 2010) 137.
[116] Eromosele Abiodun, op. cit.
[117] S. 254C-(1)(a) of the *Constitution*.
[118] Ibid: "… conditions of service, including health, safety, welfare of labour…" definitely covers "marine environment" as environment of work.
[119] S. 233(1)&(2)(a)-(c) of the *Constitution*.
[120] S. 243(4) of the *Constitution*.
[121] Presidential Assent Speech on the *Third Alteration Act* op. cit.
[122] *Adegboyu v. UBA* op. cit. and, *Skye Bank Plc v. Iwu* op. cit.146, D-F.
[123] *Anam v. Abuo & Ors* at https://www.nicnadr.gov.ng/nicnweb/displayr.php?=8452 [accessed Dec 25, 2023] and *Rhodes v. NDIC* (2017) LPELR-41925 (CA) 39-40, E-A.
[124] [The *Presidential Assent Speech* [supra]; *Adegboyu v. UBA* [supra] and, *Skye Bank Plc v. Iwu*, 146, D-F [supra].

undomesticated conventions to seafarers and civil aviation workers, meaning, while the world had moved on and the *Third Alteration Act* had ensured that, the *NIC* is constantly abreast of cutting-edge issues in labour jurisprudence, the *FHC* is tied to the anachronistic common law jurisprudence of labour relations: an absurd consequence clearly unintended by the *Constitution*! In like manner, erudite Olawoyin's [supra] hint of concurrent jurisdiction; would create the absurd result of institutionalizing forum shopping, with two divergent jurisprudences, against the unified labour jurisprudence intended by the *Third Alteration Act*, besides the fact that, concurrent civil jurisdiction is totally impossible between both courts, in view of the mutual exclusivity of their civil jurisdictions, earlier espoused. These would therefore automatically and unwittingly compound the delay in adjudications of maritime labour disputes and, create uncertainty of judicial precedents in maritime labour law, both, which absences are central to institutionalization of healthy maritime labour law adjudication and jurisprudence.

All these facts, with the greatest respect, were not obvious to the erudite judges of the *FHC* because, they, not being, experts in labour laws and the *Court of Appeal* too, which is also a general jurisdiction appellate court, without a special panel, headed by labour law jurists, set aside for labour matters. The lawyers too, fell into this error because, from the cases and articles on this issue, none of them alluded to these wider negative implications, being that, lawyers rarely specialize in Nigeria. For these additional reasons, it is now obvious that, the *Court of Appeal's* decision in *Bains' case*, ceding exclusive civil jurisdiction to the *NIC*, though, without giving these additional reasons, is unassailable, while the decisions of the *FHC* holding that, the *FHC* has exclusive civil jurisdiction and, those of the writers towing the same line, are with respect, irredeemably wrong. The philosophy behind the grant of exclusive civil jurisdiction to the *NIC* over all types of employment/ labour causes without exception, is to bring all types of workers and labour relations, regardless of their places of work and nature of works, within the same court to enable them take full advantage of the benefits of the civilizing essences of the innovations brought about by the *Third Alteration Act*, in a bid to fulfill Nigeria's obligations to the *ILO*[125]. To hold otherwise, without clear contrary constitutional provisions to that effect, is to take some categories of workers back to servitude, without reasonable justifications, contrary to S. 254C-(1)(f)-(h) of the *Constitution*, which forbids unfair labour practices/ discriminations and, enjoins the institutionalization of international best labour practices and international labour standards in the national domestic arena. Be that, as it may, the discussion moves to another part of the article.

[125] Kanyip op. cit.

e) Whether NIC has Jurisdiction on Foreign Seafarers?

The point was made by the *FHC* in *Bains' case* that, the *NIC* lacks jurisdiction because, S. 254C-(1)(k) of the *Constitution* limits its jurisdiction to wages of Nigerian workers. The proponents of the exclusive jurisdiction in favour of the *FHC*, in their articles, reinforced this view. We have earlier examined an aspect of this objection. We shall now examine the other aspects. The ratio was that, the *NIC* lacked jurisdiction by virtue of S. 254C-(1)(k) of the *Constitution* because, the plaintiffs/claimants were foreigners whereas, S. 254C-(1)(k) of the *Constitution* limits the jurisdiction of the *NIC* over wages, to causes that arose within Nigeria and involved only Nigerian workers. Unfortunately, the *FHC* did not examine this aspect of the arguments further, and it was unfortunately not examined at all at the *Court of Appeal*'s level; and the pro-*FHC* writers have harped on it, without better arguments. The error appears to arise from a conflation of the doctrines of *Flag State* and *Port State* controls[126], whereas, the two doctrines are distinct. *Flag State Control* is a doctrine in admiralty, which gives jurisdiction over a ship on sail, its staff and seafarers, to the courts of the state whose flag is hosted on the ship, to adjudicate any dispute arising therefrom, while *Port State Control* gives jurisdiction to the courts of the state in whose port the ship berthed, irrespective of the hosted flag. The purposes are to meet the special exigencies peculiar to shipping. The *Port State Control* is corollary to the doctrine of in rem prejudgment arrest of ships as liens to secure the reliefs claimed in the actions. This particularly takes care of abandonment/starvation on the high seas, as the ships could be sold to defray any damages granted.

The *Port State Control* is particularly useful for ship workers or seafarers because of the transnational nature of their works at large on the vast landless high seas, which naturally gives room for abuse of human and contractual rights, which might prove fatal if they have to wait till they get to the state, whose flag is hosted on the ship, to challenge these. So, starvation, very grievous inhuman maltreatments and abandonment of ships and their crews without provisions do occur on the high seas and, would prove fatal without the *Port State Control* that allows seafarers to take advantage of the first human settlement the ship reaches to challenge the violations or breaches of contracts. This also affords the local municipalities rights to enforce compliance with international instruments on seafaring. The *Flag State Control* usually inures in the state in which the ship was registered. The *Flag State Control* ties jurisdiction to the state of the flag hosted on the ship, while the *Port State Control* ties jurisdiction to the municipality of the port at

[126] Simon O. Williams, "*Maritime Security: State Jurisdiction Over PCASP*" in *The Maritime Executive* at www.maritime-executive.com [accessed Nov 04, 2020] for incisive discussion on the distinction between the terms.

which the ship berthed and in which the cause of action arose or continued, irrespective of the state of the hosted flag, the *NIC's* jurisdiction being tied, in this instance, to the nature of the dispute and its connexion to labour relations and, not to the nationality of the workers.

Assuming the imputation is true that, the *NIC* has no jurisdiction over foreign seafarers, as alleged: which provision of the *Constitution* gives the *FHC* jurisdiction on labour and employment matters? None. The *FHC* is a court of enumerated exclusive general civil jurisdiction, while the *NIC* is a single-subject jurisdiction specialized court, with exclusive civil jurisdiction on labour/employment relations alone. Exclusion of the items lying outside any enumerated list is cardinal in the interpretation of statutes, including the *Constitution*[127]. So, the non-obstante clauses of S. 254C-(1)&(2) of the *Constitution*, which grants the *NIC* exclusive civil jurisdiction on all labour matters as confirmed by the *Supreme Court* in *Skye Bank v. Iwu* [supra], debars all other courts in Nigeria from the *NIC's* enumerated sphere of influence. So, head or tail, only the *NIC* has exclusive civil jurisdiction on merchant shipping labour claims in all ramifications.

It is clear that, what S. 251(1)(g) of the *Constitution* stressed, is the military and commercial aspects of the admiralty jurisdiction, admiralty being essentially a naval [military] issue. It did not stress the subject of labour/employment relations in admiralty. Though, admitted, the word "including", as used in S. 251(1)(g), expands the scope covered under the *ejusdem generis rule*[128], but it did not cover the enactment of any other statutes to widen the scope, especially, in the case of S. 251(1)(g), where it specifically states that, the only area where the *NASS* could enact further statute, to widen the extent of the admiralty jurisdiction conferred on the *FHC*, relates only to upgrading of inland waterways to international waterways. So, the *NASS* cannot go beyond the limit of upgrading the inland waterways, which is the *ejusdem generis* in issue, to create additional jurisdiction, as it has done in the *AJA*.

Words of permissiveness or inexhaustibility, like 'including' in the *Constitution* and statutes, do not warrant the enactment of new statutes, to interpret what they mean, but are for the courts to construe the breadth in application. And anything that does not come within the breadth cannot be imported from another statute, especially when another superior court's jurisdiction covers such item[129]. S. 318(4) of the *Constitution* impliedly bars any other statute from interpreting the provisions of the *Constitution*, by expressly providing that, only the *Interpretation Act* can interpret its provisions. To enact a statute to say, this is what the words/provisions of the *Constitution* mean, infringes S. 318(4) of the *Constitution*, and is also a usurpation of the duty of courts, besides the fact that, an ordinary statute **cannot** subtract from or add to the jurisdiction of the superior courts as conferred by the *Constitution* other than by means of constitutional amendment[130]. This is what the *Supreme Court* unambiguously demonstrated in its holding that:

> "Again, it is trite law that the jurisdiction of the State High Court as conferred by the Constitution can only be curtailed or abridged or even eroded by the Constitution itself and *not by an Act or Law respectively of the National Assembly or State House of Assembly*, meaning that where there is conflict in that regard between the provisions of the Constitution and the provisions of any other law of the National Assembly or House of Assembly respectively, the constitution [sic] shall prevail, if I may emphasize excepting as I have observed above by direct and clear provision in the Constitution itself to that effect[131]."

The only thing an ordinary statute can do is to give additional powers to the superior courts, as distinct from jurisdiction[132]. The jurisdiction of the superior courts are exhaustively granted by the *Constitution*[133] and, the doctrine of covering the field[134], which forbids duplication of fields sufficiently covered by the *Constitution*, would not allow such duplication. The *SHC* has exclusive residual jurisdiction. So, any statute that attempts to confer additional jurisdiction than expressly conferred by the *Constitution*, on any superior court, would definitely infringe on the jurisdiction of one of the superior courts, at least, on the exclusive residual jurisdiction of the *HCs* and, would by that, be unlawful and void[135]. Besides, there is no vacuum left in the *Constitution* with regards to the jurisdictions of all the superior courts of records, which an ordinary statute can fill up, as there is no subject on earth not already covered by the jurisdiction of one of the superior courts of records. And in the instance of S. 251(1)(g) of the *Constitution*, the only area where the enactment of further statutes was allowed to delimitate the scope of the admiralty jurisdiction of the *FHC* relates only to upgrading of inland waterways, to international waterways. The express mention of one thing, excludes those not mentioned[136]. As S. 251(1)(g) did not cover the issue of admiralty labour disputes, the *NASS* could not have enacted a statute to widen the jurisdiction of the *FHC* in that regard.

[127] *Mogagi v. Ogele* (2012) LPELR-9476 (CA) 88, A-C and *Buhari & Anor v. Yusuf & Anor* (2003) LPELR-812 (SC) 20, B-E.
[128] *Buhari & Anor v. Yusuf & Ors* op. cit., 15-16, E-B.
[129] *NUEE v. BPE* op. cit. 38-42, A-D.
[130] *Ibid* 40-42, F-D.
[131] *Ibid*, 38-39, A-F.
[132] Ibid, 40-42 op. cit.
[133] Ibid, and *Job Ike & Ors v. PatricK Nzekwe & Ors*. (1975) LPELR – 1468 (SC) at 9–10, C–A.
[134] *INEC v. Musa* op. cit.
[135] *NUEE v. BPE* op. cit.
[136] *Oloja & Ors v. Governor, Benue State & Ors* (2015) LPELR-24583 (CA), 21, B-D.

So, S. 2(3)(c)-(d)&(r) of the *AJA* cannot widen or delimitate the admiralty jurisdiction of the *FHC* to include maritime labour claims without direct authorisation by S. 251(1)(g) of the *Constitution*, more so, when in conflict with S. 254C-(1)(a)-(b)&(k) of the *Constitution*. If such is done, as was done in the *AJA*, the provisions are simply void by the doctrine of covering the field[137]. So, the decision of the *Court of Appeal* that, these provisions were void for inconsistency with S. 254C-(1)(a)&(k) of the *Constitution* was right. If the employment relations of naval officers, around whom admiralty revolves, and who clearly performed highly specialised naval duties, are subject to the exclusive civil jurisdiction of the *NIC*, it looks strange to argue that, other categories of workers in the admiralty sector, like merchant seafarers, who are not more specialists than naval officers, ought not to be equally subject to the civil jurisdiction of the *NIC*. None of the pro-*FHC* authors and the contrary decisions of the *FHC* have posited that naval officers' employment causes are not subject to the exclusive civil jurisdiction of the *NIC*. This further shows the incongruity of their objections.

The textual anchor of S. 251(1)(g) is even against that position. In effect, the scope of the admiralty jurisdiction of the *FHC* is left to the areas specifically spelt out in S. 251(1)(g) and, are those areas that are traditionally within the normal scope of admiralty jurisdiction, by virtue of the word "including" and, when constitutional amending provisions [S. 254C-(1)(a)-(b)&(k)] subsequently took away the civil jurisdiction on all labour/employment/wage claims without exceptions and gave them to the *NIC*, it would amount to deliberate obfuscation to continue to argue that, such jurisdiction remains in the *FHC* and, worse still, base these arguments on the provisions of ordinary statutes. If S. 251(1)(g) did not even approve of the provisions of S. 2(3)(c)-(d)&(r) of the *AJA*, it goes without much ado that, the issue of whether S. 254C-(1)(k) relates only to wages of Nigerian workers is, red herring because, without S. 254C-(1)(k), the *NIC*, by virtue of S. 254C-(1)(a), already has sufficient exclusive non-obstante jurisdiction to deal with wage issues arising from any part of the federation, whether from foreigners or citizens or from foreign seafarers or not and, to apply any relevant statute by virtue of the equally non-obstante S. 254C-(1)(b) of the *Constitution*. Wage issues are labour issues, the profit or reward of labour being wages [salaries or remunerations]. Wages, the twin side of profits, are the incentives for labour and, the invisible hands that drive commerce and capitalism. Hence, wages and profits are the Siamese twins of labour.

Assuming, the contrary arguments that S. 254C-(1)(k) did not cover wage claims of foreigners, were right, a close examination of the ratio and the arguments show that, by the same token, the *FHC* too, lacks jurisdiction because, ordinarily, no municipal court could exercise jurisdiction over a cause that arose in foreign land and involves foreigners under the principles of *Public International Law*, even if both parties subsequently reside in Nigeria without more. That section 254C-(1)(k) of the *Constitution* includes the phrase "…in any part of the federation…" which has been wrongly leveraged, as meaning that, the workers must be Nigerian workers alone, is clearly, with respect, a misconception. First, the phrase does not detract from the *NIC's* exclusive civil jurisdiction over labour and employment matters arising onboard merchant ships and civil aviation involving foreigners, foreign merchant ships and foreign civil aircrafts.

The right to exercise of the *NIC's* exclusive civil jurisdiction in these instances derives from the doctrine of *Port State Control,* which allows foreign seafarers rights to sue in foreign courts other than courts of the *Flag State*. It is from this doctrine that the *FHC* originally assumed jurisdiction over merchant-shipping/civil aviation labour claims before the bifurcation of its civil jurisdiction in favour of the *NIC*. So, with the bifurcation in favour of the *NIC*, the *NIC* takes over the doctrine, in that aspect of the law, to exercise the admiralty labour jurisdiction hitherto exercised by the *FHC*. That is the natural consequence of the grant of exclusive jurisdiction to the *NIC* in that area of labour claims that warrants the invocation of this common law doctrine. This doctrine gives the requisite municipal court, the *NIC* in this respect, the condition precedent to exercise its exclusive civil jurisdiction on labour/employment matters in admiralty/civil aviation. A very careful examination shows that, the doctrine of *Port State Control* is actually an extension of the plenaries of the subject matter, parties and territorial jurisdiction of a court. By stepping into Nigeria with the regnant contract intact, but breached in Nigeria or, with the breach happening outside Nigerian shores, but continuing on the Nigerian shores or coasts, the *NIC*, by virtue of S. 254C-(1)(a)&(k) ordinarily has the exclusive jurisdiction for which the doctrine is a condition precedent. S. 254C-(1)(k) of the *Constitution* did not talk about the nationality of the workers who made the wage claims and also did not talk about the workers being employed by Nigerians or Nigerian companies, but that; the wage claims [cause of action] must come from "*any worker or employee in any part of the federation"*.

Thus, it is the worker/employee being within any part of Nigeria, which matters: not, whether the worker is a Nigerian or employed by a Nigerian or a Nigerian company or statutory corporation or institution. It follows that, once a ship berths in a Nigerian port, the workers are automatically in a part of Nigeria in which the ship on which they work has berthed, and any breach of the contract of employment at that point or a breach that continued to that point, brings about a cause of action within the Nigerian shores or coasts [the cause of action

[137] *NUEE v. BPE* op. cit.

arose at that point or continued to that point] as envisaged by S. 254C-(1)(k) and, the ship and its workers are automatically under the territorial and subject matter jurisdiction of the *NIC* and, can therefore bring in-rem actions to arrest the ship as pre-judgment lien[s], unless adequate bonds are provided[138]. The seafarers who come within the confines of "*any worker or employee*" as used in S. 254C-(1)(k), and are in Nigeria by virtue of their ships berthing in Nigerian ports [any part of the Federation] where the issues of non-payment of wages arose or continued in that part of the federation, gives the foreign workers the right to bring actions at *NIC* in Nigeria and, the *NIC* has the right to place reliance on the doctrine of *Port State Control* to invoke its municipal jurisdiction thereon. There is no other logical way of looking at the issue, considering the law that, constitutional provisions must receive broad constructions[139].

The doctrine of *Port State Control* operates when ships enter a municipal port, whereby the municipal port logically exercises certain measures of territorial control over the ships and parties and, on sundry issues, including issues connected with unpaid wages of the seamen and other labour/employment issues on the high seas, because of the urgent nature of these issues, which cannot be postponed till the return of the ships to the flag states. So, by virtue of this doctrine, seamen can bring legal claims on unpaid wages in the court of the port state with the requisite municipal jurisdiction[140], irrespective of where the contracts were concluded and the flag states of the ships, provided the breaches occurred or continued to that point. Where the breach occurred, as in general law of contract and, the parties are present and, especially the ships, which can be arrested in rem, in the local jurisdiction, confers the right to exercise *Port State Control*. It is analogous to the *doctrine of necessity*[141] by which the acts of usurpers of sovereign mandates may be given validity because of the urgency and necessity dictated by the peculiar situation at hand. By virtue of the doctrine of *Port State Control*, a vessel can be arrested and detained pre-judgment by the municipal court with the requisite jurisdiction for a host of issues, including non-compliance with international conventions, such as the *MLC*[142], *SOLAS*[143] and *STCW*[144] and; these could include matters affecting crew conditions, such as, excessive working hours and outstanding wages[145] and other labour/employment disputes on the high seas.

It is certain that, the doctrine of *Port State Control* is not the conferrer of jurisdiction on the municipal court, as wrongly assumed, but only specifies the condition precedent for the municipal court to assume the prior jurisdiction it has over the subject matter, territory and parties in the suit. It could not have been otherwise. An international treaty or custom could not have spelt out the particular municipal courts in the member states that should exercise jurisdiction on issues covered by the treaty or custom. It is purely the domestic affairs of the member states to donate which courts will exercise jurisdiction over the convention. Since the *FHC* lacks municipal jurisdiction over labour/ employment matters and wages of workers, it lacks jurisdiction to utilize the doctrine of *Port State Control* over wages of seafarers, by relying on its general admiralty jurisdiction, which has been whittled down by S. 254C-(1)(a)-(b)&(k) of the *Constitution*. It is in this wise that, it is unnecessary to shy away from saying, the *NIC* exercises admiralty/civil aviation jurisdiction over maritime/civil aviation labour relations, as the *NIC* attempted to do in its very brilliant landmark decision in *Stephen's case*, by saying, the *NIC* was not exercising admiralty jurisdiction, in assuming jurisdiction on torts arising from labour relations onboard a merchant ship, but that, it was exercising purely labour jurisdiction; as if admitting it had admiralty jurisdiction was an anathema that would have automatically derobed it of that jurisdiction. It needs not avoid the use of that jargon. It has admiralty jurisdiction on admiralty labour matters, whether by way of torts, wage disputes or terminations of employment or any other labour/employment matters or matters related to or connected with or ancillary to or arising from: period.

The important thing is: if the exercise of the exclusive civil jurisdiction is fully covered by the *Constitution*. Jargons cannot have the effect of thwarting the *Constitution* on an issue on which it duly grants exclusive jurisdiction to a particular court. After all, different courts simultaneously exercise jurisdictions over different parts or all parts of admiralty in different nations[146]. In the *USA*, a federalism like Nigeria, and

[138] Douglass G. Schmitt et al, "*The Action In Rem And Arrest*", *Federal Court and Federal Court of Appeal Education Seminar, Maritime Law*, Sponsored by the *National Judicial Council and Canadian Maritime Law Association,* May 23, 2014 at www.cmla.or [accessed Oct 01, 2022].

[139] *ACN & Anor v. INEC & Ors* (2013) LPELR-20300 (SC) 27, D-E.

[140] '*Port State Law*' in "*Your Legal Rights | ITF Seafarers*" at https:// www.itseafarers.org [accessed Nov. 03, 2020]. *Port State Jurisdiction – Oxford Public International Law*" *OUP* www.opil.ouplaw.com [accessed Nov 03, 2020]. *Arrested and Detained Vessels, and Abandoned Seafarers*" at https://www.ics-shipping.org [accessed Nov 03, 2020].

[141] *Oguebie & Anor v. Odunwoke & Ors* (1973) LPELR-2315 (SC) 11-31, B-C.

[142] *ILO Maritime Labour Convention, 2006*.

[143] ILO *Convention for Safety of Life at Sea 1974*.

[144] International Maritime Organisation, *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978*.

[145] "*Arrested and Detained Vessels, and Abandoned Seafarers*" *op. cit*.

[146] Will Kenton, "*Admiralty Court*" [updated June 07, 2022] at www. investopedia.com [accessed Oct 08, 2022]. See also Courts and Tribunals Judiciary, "*How are Tribunals decisions challenged*" op. cit. See Case No. 2400214/2017 – delivered by the *Employment Tribunals, London Central*, 25 October 2017 op cit. whereby the inferior *Tribunal*

whose *Constitution* Nigeria substantially copied, both state court and the federal *District Court* share in admiralty jurisdiction, though, the *District Court* has essentially exclusive admiralty jurisdiction in specific areas[147]. Nigeria is not therefore the first to bifurcate admiralty jurisdiction in different courts. Hence, whether the *NIC* exercises admiralty jurisdiction is irrelevant. What is relevant is whether the *Constitution* actually conferred it with the jurisdiction and, whether it can add value to labour jurisprudence, by its jurisdiction thereon and, ultimately the legal regime of labour relations in that sector and, boost the national economy in line with the objectives of the *Third Alteration Act*. And, as has been adequately shown before now, the *Constitution* actually duly conferred the *NIC* with full exclusive civil jurisdiction on seafarers/civil aviation crews' labour claims with full statutory and inherent powers of pre-judgment in-rem arrest of ships, as liens to secure damages awardable in the in-rem actions. And the innovations that abound in the *Third Alteration Act*, which only the *NIC* can apply, are evidence that, the *NIC* adds more value in this area of the law than the *FHC*, propping up positive healthy labour relations and economic development, being the very reasons for the first creation and, the current re-creation and repositioning of the *NIC* for greater efficiency[148].

In this wise, the argument of erudite Olawoyin that, subjugating S. 251 of the *Constitution* to S. 254C-(1) is unsavoury, because both courts are specialised courts, with respect, cannot be right. The *FHC* is not a specialised court but a general jurisdiction court just like the *SHC*, but with exclusive jurisdiction on issues pertaining to the *Federal Government*. The *NIC* is the only superior court, as of today in Nigeria that, is truly a specialised court. And even if the *FHC* is actually a specialised court, which it is not, the only way to avoid confusion and overlapping of the frontiers of the jurisdictions of both courts, as is being currently created in spite of the clear language of the *Constitution*, is the method adopted by the drafters of the *Third Alteration Act*, which subjugates S. 251(1)(g) of the *Constitution* to S. 254C-(1)(a)-(b)&(k) of the *Constitution* in order to effectively secure the *NIC's* specialisation. To tow the line that S. 254C-(1)(a)-(b)&(k) did not subjugate S. 251(1)(g) of the *Constitution* and, to agree to concurrent jurisdictions for *FHC* and *NIC*, suggested by the learned author, is to create unwittingly, unimaginable confusion. The proper thing had been done; and it should left undisturbed.

Therefore, there is no unintended consequence flowing from the conferment of exclusive merchant shipping/civil aviation labour jurisdiction on the *NIC*. Erudite Olowayin's admission that, when it comes to the issue of arbitral awards and their enforcements that, the question of the simple contract fulcrum of the maritime labour contracts would deprive the *FHC* jurisdiction in favour of the *NIC* is a further clear pointer to why the *FHC* cannot share at all in the civil jurisdiction on maritime/civil aviation labour claims, exclusively ceded to the *NIC*. It is clear now that, the research has thoroughly examined all the issues it sets out to examine to clear the fogs on the frontiers of the jurisdictions of the *FHC* and the *NIC* in the areas of merchant shipping/civil aviation labour disputes. Therefore, in the natural course of a treatise, it must now necessarily cruise to an end.

III. Conclusion

It is thus clear that; *NIC* is the exclusive civil court for maritime/civil aviation labour claims in *Nigeria*, and not the *FHC*. The *FHC* only has exclusive civil jurisdiction in the vast remaining parts of admiralty/civil aviation claims unconnected with labour relations. *Ipso facto*, the *Court of Appeal's* decision overruling the *FHC's* decision in *Bains' case*, which wrongly ceded exclusive civil jurisdiction over maritime labour claims to the *FHC*, is unassailably right. It is clear that, with the *NIC's* labour expertise and its flexible rules and procedures, it better meets the aspirations of speedy and efficient disposition of cases. It is clear too that, with exclusive civil jurisdiction ceded to the *NIC* on merchant shipping and civil aviation labour claims, the rights of workers in the two sectors are better protected by the exclusive civil jurisdiction of the *NIC* to apply ratified international labour instruments [domesticated or not] and, its equally exclusive civil jurisdiction to eradicate unfair labour practices and, emplace international best practices thus, meeting Nigeria's obligations to the *ILO* and other labour organisations. No doubt, these contribute to adjudicatory efficiency and better protection of labour rights in line with the Nigerian *ILO* obligations, which are not available in the *FHC*. These support the unassailable correctness of the *Court of Appeal's* decision in view.

The clear constitutional demarcations of the frontiers of the jurisdictions of *FHC* and *NIC* by the non-obstante clauses of S. 254C-(1)&(2) of the *Constitution* solved the problem of any possibility of overlapping jurisdictions and the consequential conflicting decisions. Bypassing these non-obstante clauses is the cause of all these controversies. We should just obey the *Constitution*, since there is no absurdity arising therefrom. It is thus clear that, the non-obstante clauses

heard the admiralty labour claims involving foreigners. But being an inferior tribunal, it lacked the power to order in-rem arrest of ships, since inferior tribunals have no inherent powers – see Vivet Kumar Verma, "*Difference between superior and inferior court*" at www.indian caselaws.wordpress.com [accessed Oct 01, 2022].

[147] Marilyn Raia, "*Admiralty Jurisdiction – What Does That Mean?*" Buuivanthouser [posted 11.01.13] at www.bullivant.com [accessed Oct 01, 2022].

[148] Presidential Assent Speech on the *Third Alteration Act* op. cit.

that conferred *NIC* with exclusive civil jurisdiction over all labour matters, including admiralty/commercial aviation labour matters, was deliberate, to eschew this type of controversies, which have been shown to be products of misconceptions arising from non-familiarity with the purports of the *Third Alteration Act* and other cognate constitutional provisions and, the salient provisions of other relevant statutes.

The *Court of Appeal* should, therefore, not be invited to a self-defeating macabre circus of conflicting decisions on this issue. Needless to say that, the suggestions for: constitutional amendment, case stated to the *Supreme Court* and, advocation for concurrent jurisdictions, are not justifiable in law and the economics of labour and adjudicatory efficiency. As a matter of urgency, the *NIC* should amend its civil procedure rules, to incorporate civil procedures on its maritime/civil aviation labour jurisdiction, which take into consideration its peculiarities as a specialised labour court. Taking this proactive step timeously will reinforce the *NIC's* commitments to optimum adjudicatory efficiency. In the meantime, it can rely on the *FHC* rules by virtue of S. 254D-(1) of the *Constitution* and Order 1, Rule 9(1) of the *NIC Rules*, to manage its exclusive non-obstante civil jurisdiction on maritime/civil aviation labour claims.

It has been a worthwhile journey into charting a sure course into these labyrinthine and thorny legal issues that have been agitating the legal circle for some time now. This could not have been achieved without piping from the exalted shoulders of the previous erudite scholars on these issues, into the ethereal and esoteric natures of knowledge and understanding. I therefore acknowledge all the erudite legal scholars, jurists and practitioners, especially those that I have specifically cited, in assisting me to advance understanding in these recondite areas of the law. I especially thank the peer reviewers, whose suggestions, I have leveraged to improve this research.

It is hoped this research has significantly contributed to the elucidation of the thorny issues; and if not, it should be accepted in the manner in which friends accept gifts amongst themselves, where the intentions behind the gifts are more cherished than the material qualities of the gifts. The intentions of the research were: to elucidate and provide solution to the thorny controversies on the frontiers of the admiralty/civil aviation jurisdictions of the *FHC* and the *NIC* and thereby, ensuring the fruition of the objectives of the specialisation of the *NIC* and, the much needed certainty in these areas of the law, for the benefits of the international community in merchant shipping/civil aviation industries and, for national economic growth and development, considering the centrality of merchant shipping/civil aviation to international commerce. It should be accepted as such. *C'est fini*.

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Reconstruction of Participatory Development Paradigm based on Spiritual in Improving the Social Welfare of Rural Community

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Abstract- This study aims to develop a participatory development strategy based on IESQ Power in Konawe Selatan District Government of Indonesia. Therefore, the research process uses a participatory paradigm in the form of shallow and deep participation and creative participation to improve the welfare of rural communities.The result of research showed that the strategic formulation of participatory development based on IESQ Power is a synthetic process between the participatory development cycle with the six Pillars of Faith and five Pillars of Islam. Meanwhile, the construction of integrated rural development reflects the synergistic process between the participatory development paradigm and religious values, which are cored in IESQ Power and Revelation System. Thus, the use of the participatory development paradigm is not only integrated and interdependent between structural, cultural and spiritual approaches, however, the process of implementing participatory development in rural communities can also take place comprehensively and strategically and be carried out with a full sense of responsibility. In turn, however, it can also be a driving force for social worship that can increase internal motivation for actors in empowerment and other development programs.

Keywords: *reconstruction, paradigm, participatory development, spirituality, welfare, rural communities.*

GJHSS-C Classification: *JEL Code: O15*

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Abstract- This study aims to develop a participatory development strategy based on IESQ Power in Konawe Selatan District Government of Indonesia. Therefore, the research process uses a participatory paradigm in the form of shallow and deep participation and creative participation to improve the welfare of rural communities.The result of research showed that the strategic formulation of participatory development based on IESQ Power is a synthetic process between the participatory development cycle with the six Pillars of Faith and five Pillars of Islam. Meanwhile, the construction of integrated rural development reflects the synergistic process between the participatory development paradigm and religious values, which are cored in IESQ Power and Revelation System. Thus, the use of the participatory development paradigm is not only integrated and interdependent between structural, cultural and spiritual approaches, however, the process of implementing participatory development in rural communities can also take place comprehensively and strategically and be carried out with a full sense of responsibility. In turn, however, it can also be a driving force for social worship that can increase internal motivation for actors in empowerment and other development programs.

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I. Introduction

Well-being is always coveted by every individual, family and society as a whole, where the intended well-being is a psychological mental health condition accompanied by the ability to meet all primary and secondary needs. Therefore, one of the most important efforts to do psychological education for each family effectively to manage problems caused by mental health problems through participatory treatment models (Zoladl et al., 2020). Similarly, well-being during this life can last for various types of family relationships, marital bonds, intergenerational, and siblings, it turns out to be very important for well-being (Thomas et al., 2017). Efforts to achieve the well-being of children and poor families at risk during COVID-19 are based on syst emic models of human development and family function by making child adjustments through cascading processes involving caregiver welfare and family processes (Prime et al., 2020). Including the importance of equitable public health services that can have an effect on social integration (Jing et al., 2019). The ideal of every nation state in building is the welfare of its entire population without exception. Efforts to meet the needs of a more sustainable population are through welfare approaches to well-being, through ecological maintenance and welfare integrated in every planning (Khan et al., 2020). All development capabilities and strategies and development models are directed to achieve the development goal of community welfare. In relation to this, it is necessary for every institution including Islamic educational institutions to direct its development strategy by strengthening integration, universality and democracy (Ainissyifa, 2019). Keep in mind that urban and rural development strategies are influenced by governance accompanied by contemporary nature conservation policies and practices, so the important thing that needs to be done is the neo-endogenous approach strategy as a state-driven nature conservation initiative in terms of local resistance and unbalanced power relations (Hidle, 2019). Community welfare means the ability of the community to meet its basic and secondary needs independently. Social services including health services are the social and life conditions of an independent society, and implement innovative solutions when formal services are inadequate to relieve pain, fatigue after loss of mobility (Grimmer et al., 2004). Similarly, in terms of community financial services for the sake of achieving prosperity, where they develop microfinance in rural areas taking into account local wisdom in saving and investing by villagers to overcome limited access to formal financial services, as well as in reducing poverty where village development uses a bottom-up approach taking into account local wisdom through microfinance development (Soegiono et al., 2019). It turns out that the existence of a facility and infrastructure such as a port has determined for the economic development of the region and the country, so as to be able to prosper and improve the quality of life, along with the existence of circular city model (CCM) operating and preserving marine and marine resources in a sustainable manner (Cerreta et al., 2020). The fulfillment of these needs is easily obtained and available at any time and can be felt by all citizens of the community, where the availability of primary and secondary needs is easily obtained through the market. Therefore, to meet the needs of ict

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application as a vehicle to establish e-marketing because it can create jobs, the population is a small holder, and the e-marketing model must be proposed adopted and operationalized (Alavion & Taghdisi, 2021).

But reality shows that well-being has not been felt by all individuals and societies. Social welfare issues are strongly related to ecological sustainability, meaning that it requires handling of ecological challenges that have a negative impact on equality and social welfare, which is why policies are needed by integrating ecological sustainability with social welfare planning (Khan et al., 2020). The lack of perceived well-being by individuals, families and communities is due to the uneven development of character education in the perspective of Islamic education, as superior character in terms of intellectual, emotional, and spiritual intelligence (Rohana, 2019). The inability of the State/ government and society to prosper individuals and communities is seen from the increasing number of poor people both in urban areas and in rural areas. Efforts to build with external cultural strategies integrated with local culture in communicating their values and identities in the context of potential cultural and ideological differences (Simić, 2020). In addition, there has been no announced strategy of developing Islamic educational institutions in order to strengthen the concept of integration, universality, and democratic paradigm (Ainissyifa, 2019). Development strategies and models have not been able to prosper the community. The social gap between rich and poor is widening. The key development strategies and models are dissemination through social networks and from a transmedia storytelling perspective integrated into territorial marketing strategies as resources that reinforce the achievement of development goals (Campillo-Alhama & Martínez-Sala, 2019). Development management is only beneficial if contemporary nature conservation policies and practices are based representing new structures that can influence development strategies in communities, where local capacity building is adapted to complex planning theories (Hidle, 2019). Poverty or inability to meet primary needs can be done through social enterprise work integration (WISE) accompanied by encouragement of social values, even the social impact is oriented to forms of social sustainability (Rey-Martí et al., 2021). Difficulty meeting basic and secondary needs due to declining purchasing power of the community. The increasing and expensive energy needs, energy and economic performance need to be applied to agricultural and zootechnical communities, even contributing to the international goals of sustainable development (Maturo et al., 2021). Economic development aims to increase income and purchasing power, the effort that needs to be done is to explore the capacity of the local economy (Pavel et al., 2020). Maintaining purchasing power through efforts to strengthen the economic resilience of rural areas in the form of social capital and agricultural dependence can provide benefits, but on the other hand some things that hamper economic resilience, namely crime rates and political participation (Hennebry, 2020).

Therefore, participatory development strategies are needed as a way to achieve the welfare of the community through the involvement of poor people in the development process. Building a participation model means building consensus to organize and communicate reciprocal relationships between biological, psychological, social, cultural, and environmental factors (Thompson et al., 2020). Development requires a systematic participatory model that utilizes information technology in collecting data for organizational/group decision-making (Eleftheriadis et al., 2018). And social well-being is integrated with ecological sustainability, so that between social welfare and ecology is handled simultaneously and integrated in drafting policies (Khan et al., 2020). Basic needs and sekundary needs development model according to community culture. One of the fundamental needs of society is economic fulfillment through job creation with the skills to make craft objects accompanied by a process of communication of the importance of harmonious living, and avoiding things that can cause social, cultural, ecological or political resistance (Pérez, 2021). The application of ESQ power for all elements of society as a tool to maintain and improve the welfare of the community. The application of intellectual, emotional and spiritual intelligence, it turns out, can increase the productivity of society (Priyono et al., 2018). Da turns out that welfare as a value that is upheld because it can be an index of social progress (Voukelatou et al., 2021).

II. Research Method

The participatory research process takes place in the form of shallow participation and deep participation. Constructivism is to find the meaning of an event or activity through various methods such as participatory observation and observation, free and in-depth interviews, case studies and Focus Group Discussion (FGD). This provides an opportunity to formulate a participatory development model, because in practice constructivism uses a variety of approaches to acquire knowledge and understanding of a theoretical perspective including: interpretivism, phenomenology, symbolic interaction and critical theory. This study uses the typology of cross sectional studies as a case study that seeks to shorten the observation time by observing at certain stages or levels of development, this research process uses descriptive type case studies that take place.

III. Results and Discussions

Participatory development strategy as one of the rural community development policies, has been

implemented in South Konawe district of Indonesia's Southeast Sulawesi province. Development participation means involving all elements of society in the development process starting from the stage of planning, implementation, supervision and utilization of development results. The basic needs-oriented development model is a model of community development adapted to the needs and culture of the community itself, in addition to that also applied secondary needs oriented development model as a complement to the fulfillment of needs in accordance with community culture. Participatory development is certainly determined by the developmental actors, and one of the abilities that needs to be possessed as an actor is emotional and spiritual intelligence. That is why, it is important for them to be given education and training in Emotional and Spiritual Quotient (ESQ), which is carried out gradually and thoroughly for all of societal elements. The existence of various policies from both the central and regional governments is used as a guide in generating community participation in the development process. Involvement of all elements of society in every stage of development. Basic needs and secondary needs development models that are adapted to culture are alternatives needed by the community. The application of ESQ power as one of the methods in motivating, so that all community leaders have the ability to improve and maintain their well-being.

1. ESQ Power-Based Participatory Development Strategy

The results showed that intellectual intelligence accompanied by emotional and spiritual intelligence of development actors and actresses in various fields can undoubtedly cause a development and empowerment program to succeed and succeed in achieving the development goals themselves, that esq power-based participatory development strategies have been successful in developing rural development programs. Participatory development based on ESQ Power as "sotware interconnection relations is needed especially in building rural areas that are still natural and rural communities that are still thick cultural values. That the cultural approach is a safe and indispensable approach in performing services to rural communities (Schill & Caxaj, 2019). Similarly, managing a problem in a society that will intervene requires a participatory model of care (Zoladl et al., 2020).

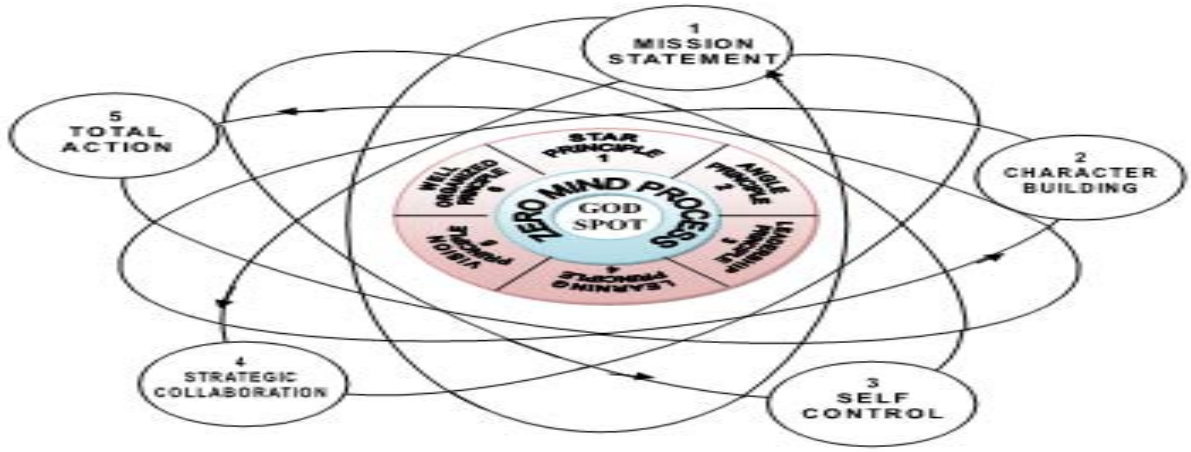

Chart 1: Implementation of Life in perspective of The Pillars of Faith and Pillars of Islam as characters in development actors.

Indeed, the injection of the values of the Rukun Iman and Rukun Islam cycles as seen in chart 1 can be a powerful energy that will have tremendous power to propel man to walk on the orbital line that has been outlined towards the peak of devotion. For development actors and a network of actors who are able to emit spirituality values can run development and empowerment programs in accordance with the guidance of the paradigm that has been outlined. In formulating institutional development strategies requires the paradigm of Islamic education development through strengthening integration, universality and democracy and supported by the formulation of educational principles, formulation of vision and mission that jells and measurable and strong governance (Ainissyifa, 2019).

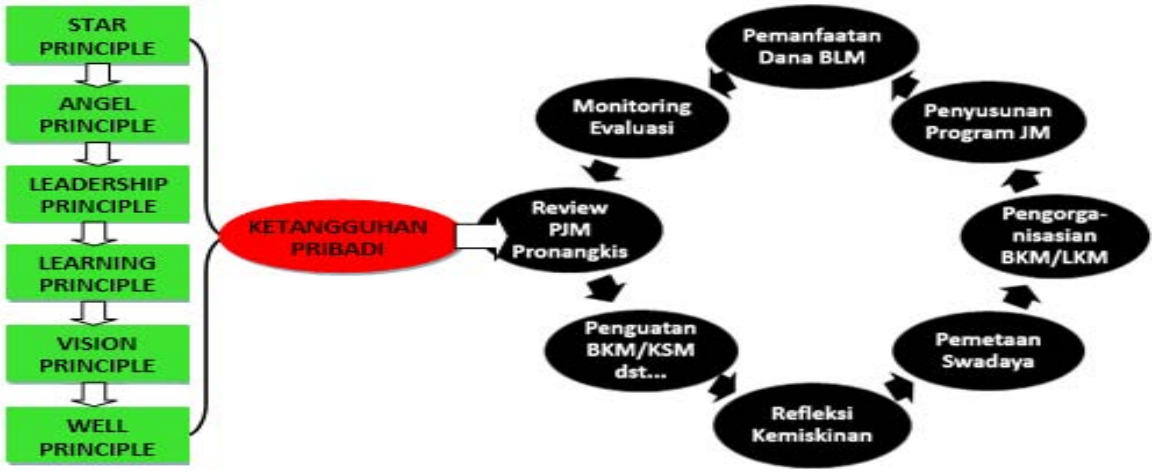

Chart 2: Prophetic Construction and Its Effect on Personal Toughness and Participatory Cycles.

Efforts to place the Star Principle of Faith as an indicator of social faith that has been internalized in the mind and conscience of a person or group of people. Then it can be ascertained that it will follow the honesty of angels (Angel Principles), follow fully the pattern of Prophetic leadership (Leadership Principle), learn throughout his life (Learning Principle) commonly called long life education, long-term thinking (Vision Principle) and not pragmatic, and obey the laws and rules of the game that have been agreed (Well Organized Principle). Not the other way around, so massively commits violations of the law in various deviant behaviors, and even tends to appear kebablasan. Of course, it also needs energy and economic performance support that can be applied by agricultural communities oriented towards sustainable development, through innovative technologies that utilize rural energy resources (Maturo et al., 2021). While it is recognized that vulnerability to change can lead to increased understanding of risk and increased adaptive capacity, where extreme weather events, or weather-related events and crises can challenge people's resilience, it can also increase opportunities for learning and innovation, expanding the repertoire of adaptive responses (Endfield, 2012). Support unity and unity by training citizens to be open, compromised and adaptive societies (Awang et al., 2019). Economic resilience policies are also indispensable when society has opened itself up to the outside world that will be vulnerable to compensation on foreign investment (Pretorius et al., 2021). So that development strategies using participatory models need to be supported by emotional and spiritual intelligence of all elements of society as development actors. Emotional and spiritual intelligence will give birth to development actors who have individual and social toughness. Efforts to establish personal toughness through this pre-professional educational construction, every actor requires a deep concentration to live and practice a ritual worship is not only in the framework of efforts to establish personal toughness and social toughness, so as to apply the cycle of participatory development to the maximum. This is the right step in avoiding the helplessness, uncertainty, confusion, suffering, and ethical and social tensions that can lead to the birth of a brutal society.

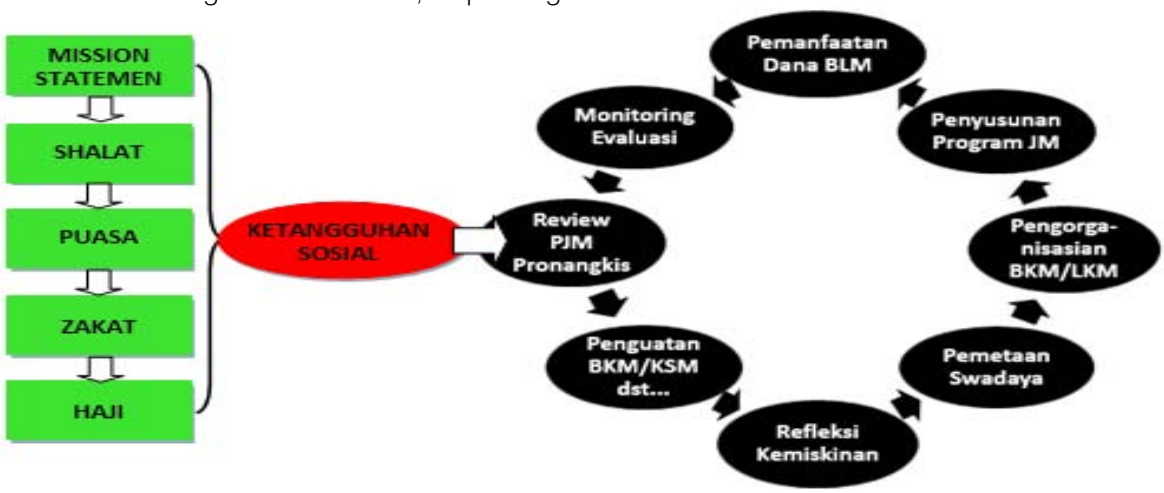

Chart 3: Prophetic Construction and Its Effect on Social Resilience and Participatory Cycles.

Along with that, if praying and fasting are guaranteed to lead to personal toughness. While *Zakat* and *Hajji* is a synergistic collaboration strategy and will certainly produce social resilience. All of this can be imagined, how will the result when the actor of the poverty reduction network successfully treads the cycle of The Pillars of Faith and The Pillars of Islam in depth? Of course, it will not only have a high level of awareness. However, it will also have the intellectual intelligence to maintain the trust and trust of the people visually. Individual and social resilience for development actors can anticipate any external economic shocks, which will affect regional economic growth in developing regions through the impact of export demand and capital inflows (Zerrer & Sept, 2020). Of course, it is also supported by a strategy to understand each other's differences in culture, power and status that must be communicated so that it becomes a potential driver of the process of progress (Simć, 2020). Stakeholders in this case the government and public institutions and local communities need to carry out strategies for the preservation and polarization of cultural assets, because it can be economically profitable and key in making investment decisions (Bottero et al., 2020)

How not, the political shahwat use of public money in the form of increasing spending appetite as an effort to fulfill the accessories of contemporary life. Inevitably, the squandering of political costs that may be jarring in various regional and national political arenas, both before taking the hot seat and or afterwards as a form of security fund intended for successful teams in order to maintain the status quo for those in power. Inevitably, when it comes to locking the buzzert actors with innumerable social and economic costs.

2. Refunctionalization of Coordination Team of Regional Overcoming (CTRO)

The maximization of function and role of CTRO is the first and main strategy to develop the building at the regional level primarily building rural area. With the existence of CTRO, it is the exact time to show political will for developing coordination and evaluation of program in a sector cross way. It means that the member of CTRO from the SKPD lineages should begin to show the spirit and performance according to their main task and function as structural institution that carries out the responsibility as the Coordinator of Poverty Overcoming Program (POP). It is certainly surprising that when a structural institution that resides in governmental area frequently gives the reason that they do not have any fund in actuating their task in CTRO. In this context, (Sahar and Salomo, (2018) finds three challenges and obstacles that cause the slowness of poverty overcoming in Pinrang Regency. Firstly, the performance of CTRO that is formed in 2010 to propel the process of planning and funding in order to be capable of resulting in the formulation of effective budget and of doing coordination and monitoring of annual poverty overcoming program in an area that is not maximized. The indication is that there is still the tendency of sector ego either in planning or in implementation of regional poverty overcoming program. Besides, the contextualization of program and indicator of benefit recipients are arranged based on the perception and indicator of each Regional Apparatus Work Unit (RAWU).

Secondly, poverty overcoming program is not integrated. As a result, so far benefit recipients have been faced to the access of a long poverty overcoming program and certainly require a lot of transportation expense. The last challenge and obstacle is that there is an obstacle at the level of benefit recipients of program namely data difference and lowness of data-basis validity extent related to the number of poor citizens and poor household that in turn become the number reference of regional poverty rate. Therefore, it is recommended that in this context, a discourse and offer related to the implementation of collaborative and academic and practice governance strive to strengthen the autonomy and legitimation to collaborative leader that is carried out by Poverty Overcoming Field of District Secretariat both by rank and by law that are defined in regional regulation that is able to regulate all stakeholders. Likewise, there must be a comprehensive guide to the stakeholders related to ideal model and knowledge of collaborative governance especially in poverty reduction by making use of and by utilizing professional staff and experts in order to be able to be directed inclusively.

In line with the thought, according to Peribadi, et. al., (2021) that dysfunctionalization of CTRO as structural institution is probably caused by the existence of CTRO use participatory development paradigm in holding out poverty overcoming program is suspected to have not been familiar to use participatory development paradigm in holding out poverty overcoming program. In addition to have not understood participatory development paradigm based on community and other cultural bases, it is possibly due to difficulty of leaving conventional paradigm that has been made not to function during New Order period. Based on that, the urgency of participatory development strategy in the frame of Cultural Weberian and Spiritual Khaldunian can be used to build rural area and community. For that reason, the writer designed a formulation as the effort of refunctionalization of CTRO as seen on Chart 4. It is a proposition of design for institutional structure of CTRO that can be considered by Board of Regional Planning Development on each area of Regency/City in preparing or activating if CTRO is regarded to have been formed so far. In this context, besides being supported by the chief, technical instance, director, and secretary, CTRO Institution must be supported by four operational Institutions in the

forum and in the field that every time they are ready to execute all programs of rural area development and poverty overcoming program that will be given in the middle of community.

Firstly, working-group of policy and planning that is in charge of giving the support of policy planning and poverty overcoming program. The tasks of this working-group are: (1) coordinating and facilitating the formulation of strategy and poverty overcoming policy and facilitating the process of synchronization with the Planning of Middle-Term Development Planning; (2) Coordinating the policy and priority program of poverty overcoming in Working-Plan of Regional Government (WPRG); (3) Doing synchronization of poverty overcoming programs of intersector and intercenter and interregion; (4) Facilitating the developing of regional poverty overcoming program in keeping with the characteristics and regional potency; and (5) Monitoring and evaluating the implementation of poverty overcoming policy.

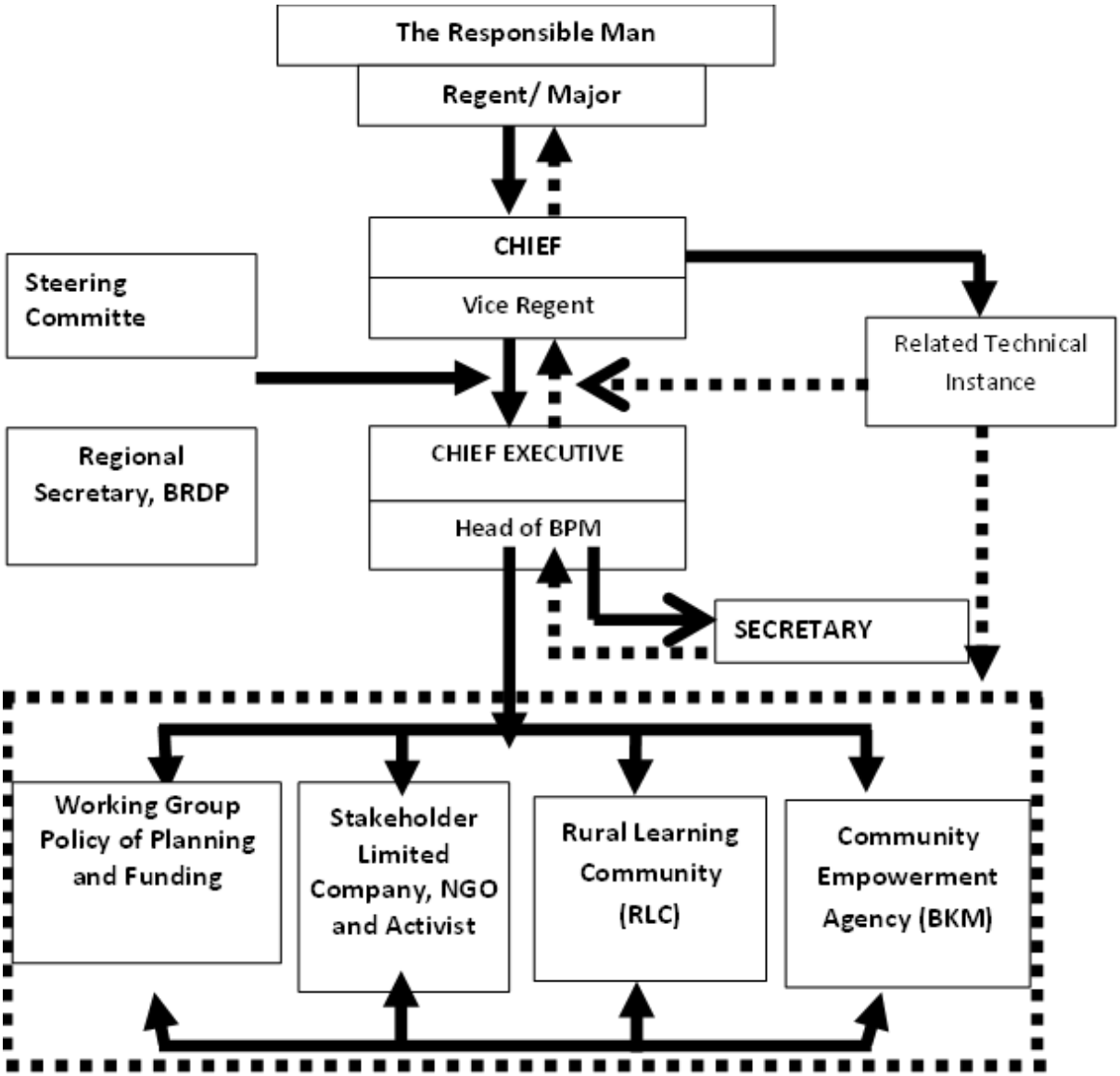

Chart 4: Proposition Design of CTRO Organization Chart of Regency/City

Secondly, institutional Working Group that is in charge of giving the support of facility in carrying out poverty overcoming program. The tasks of working group are: (1) consulting in the compiling of Regional Poverty Overcoming Strategy (RPOS); (2) Facilitating consistency of regional policy in poverty overcoming; (3) Facilitating the development of participatory capacity; (4) Coordinating the development of common project pilot; and (5) Arranging synchronization of inter institution.

Thirdly, working Group of Budgeting that is in charge of giving the support of budgeting towards poverty overcoming program. The tasks of this working group are: (1) Directing allocation and funding sources according to the programs that have been palnned; (2) Budgeting sources both from domestica and from

abroad (either coming from the government, company or society) for poverty overcoming programs; (3) Monitoring and evaluating the using of fund for poverty overcoming program both in regional and in central areas; dan (4) Fighting pro poor budgeting in legislative institution.

Fourthly, the stakeholders from various professional lineages both from Universities and Non Government Organization, and activists and from public figures primarily from the poor public figures themselves not only discuss deeply for a variety of strategies of developmental program implementation, but also are sometimes involved in monitoring and evaluating a variety of programs.

Fifthly, Rural Learning Community is Partnership organization that is in charge of formulating strategic steps that specifically study the paradigm, implement them and form society self-subsistence institution.

Sixthly, Board of Society Self-Subsistence (BSSS) as the collection of the chosen persons in a rural area to sharpen a program that is really required by societal citizen. For that reason, the member of BSSS as the collection of persons who have the spirit of volunteerism is in charge of identifying various programs of aspirational, professional and proportional development. In the context of government, BSSS is associated as the Aspirations Board that reflects as Legislative institution.

Urgency of position of CTRO in the effort of institutional reconstruction and social institutions capacity reinforcement as the working-partnership of government in carrying out humanitarian duty in the society is greatly required. Therefore, it is highly expected in order that the persons who participate in this design are the ones who do have competence, commitment, and care towards the efforts of finishing the problems of development and empowerment in the region. Thus, the process of membership recruitment must be actuated openly to choose the interested persons (not the ones who are called and especially forced) and have competence and commitment of humanitarian values. But, when analyzed from the indicator of intelligence quality developed by (Hawari, (2009), dysfunctionalization of CTRO, inactiveness of Urban Learning Communities (ULC), degradation of BSSS, and farming community institutions and data collection controversy mean to have not shown yet the capability of finishing the problems in the field (*Intelligent Quotient*), not yet transparent, accommodating, and consistent (*Emotional Quotient)*, have not been able to turn threat into challenge until turn into opportunity and have not yet generate spirit and *selft confidence* (*Creativity Quotient*). Eventually, it has not kept the trust yet based on worship (*Spiritual Quotient*).

The result of research of (Fadillah, (2018) that is contained in his article "Policy Analysis and Poverty Alleviation Strategy in Tangerang City, Banten Province" found that the implementation of poverty reduction policy through Team of Poverty Overcoming Coordination (TPOC) is doing poverty overcoming coordination as one to control the implementation of policy and poverty overcoming program (POP) comprehensively. The Poverty Overcoming Coordination covers: synchronization, harmonization, integration of inter *SKPD*, vertical and horizontal institution, and the interlaced synergy between government policy with proposition of community from the bottom. Generally, this research found that policy and strategy of poverty overcoming in Tangerang City can be said to give the positive result with the indicator of the declining of poor society number, an increasing of Human Development Index and significant for the last three years from 2012 to 2014.

Meanwhile, according to Annida, (2020) in her article that entitles "Health Financing Policy towards the Poor in Achieving Universal Health Coverage in Banjar Regency" that forum of CTRO involves Corporate and Social Responsibility (CSR) to assist the financing of health towards poor society. Another effort in order that only the society who are really poor and needy who enter in the list of social assistance regency, regional government through Vice Regent of Banjar in the forum of CTRO has also asked the Head of District to appeal the society to be motivated to enter health insurance independently. It is crystalized through circular letter arranged by Health Office of Regency and is signed by the Regent to be conveyed to the area of district as the information that since 2020 there has been no more program of regional health guarantee, and the society is appealed to enter health insurance independently.

3. Integral Strategy of Rural Area Development

Maximization of understanding and perception and application of ESQ Power-based paradigm as an integralistic paradigm will be able to produce internal motivated and sense of responsibility as a reflection of the intentions of social worship. The potential of ESQ Power is based on 6 rukun Iman cycles, 5 Islamic Rukum cycles and 7 empowerment cycles in an integrated village development strategy. Optimization of zero mind process that must be done by rural development actors before carrying out their duties is a mission statement, so that all elements of implementing development programs, ranging from facilitators and up to stakeholders must routinely discipline themselves through prayer, always hone their sensitivity and concern through fasting, strive to show their participation through zakat, infaq and sedeqah, and must be smart to build collaboration with various parties to develop their work programs. The main resource development for society is knowledge of sustainable economies supported by the interaction between economic and social integration and creating a more open environment (Li, 2020). But don't forget the

participatory evaluation of each useful and more accurate activity program (Kleinhans, 2019). One of the activities program is to develop the livestock sector through crossbreeding which is able to increase production and is considered as a solution in improving the performance of breeders from local communities (Leroy et al., 2020).

Success in developing a zero mind process, means having the ability to reflect on thought, having personal toughness means having self-help mapping skills, having social toughness means always thinking to develop institutional strengthening programs, having the ability to total action means having the ability to build collaboration strategies in order to compile various programs. In the end, the development actor who already has all kinds of abilities in the context of intellect, emotional and spiritual and other creativity intelligence, must be able to go further to develop a synergistic collaboration strategy to the stage of establishing synergistic relationships, implementation efforts and monitoring and review programs. So as to be able to carry out sustainable development with efficient technological innovation and enable energy and economic performance as a collective action (Maturo et al., 2021). Effective collaboration from a wide range of stakeholders and support from technical and non-technical expertise, can result in informed decisions (Eleftheriadis et al., 2018).

Finally, what may not be important is that we must strive to develop an integrated rural development formulation by integrating the participatory development paradigm with the potential of *ESQ Power*. Thus, the use of the participatory development paradigm becomes comprehensive, since it looks not only based on local cultural values. However, it is also in a participatory development formulation based on the potential value of *ESQ Power*, so that structural, cultural and spiritual approaches seem to be integrally intertwined and interdependent.

It seems that the peak of optimization of *zero mind process* that must be done by the developmental actors of rural areas before carrying out their task is mission statement, so that all of the implementing-element of developmental program, beginning from the facilitators to the stakeholders must be routine to make themselves discipline. This is done by praying, keeping increasing the sensitivity and care through fasting, striving to show their participation through *zakat, infaq,* and *sedeqah* (paying or giving some of our wealth to the needy or the poor, or the orphans) and being intelligent to build the collaboration with various parties to develop their working-program.

The success of developing the zero mind process means to have had the ability of reflection of thinking, having personal strength means to have had the ability of *swadaya* mapping, having social strength means to keep thinking to develop the program of institutional reinforcement, having the ability in total action means to have had the ability of building the strategy of collaboration in the case of arranging a variety of programs. At last, the actor of development who has had all kinds of capabilities in intellectual, emotional, and spiritual and contexts and other creativity intelligences must be capable of going furthermore to compile strategy of synergic collaboration (*Hajji*) towards the phase of interlacing synergic relationship, the effort of implementing and supervising and reviewing programs.

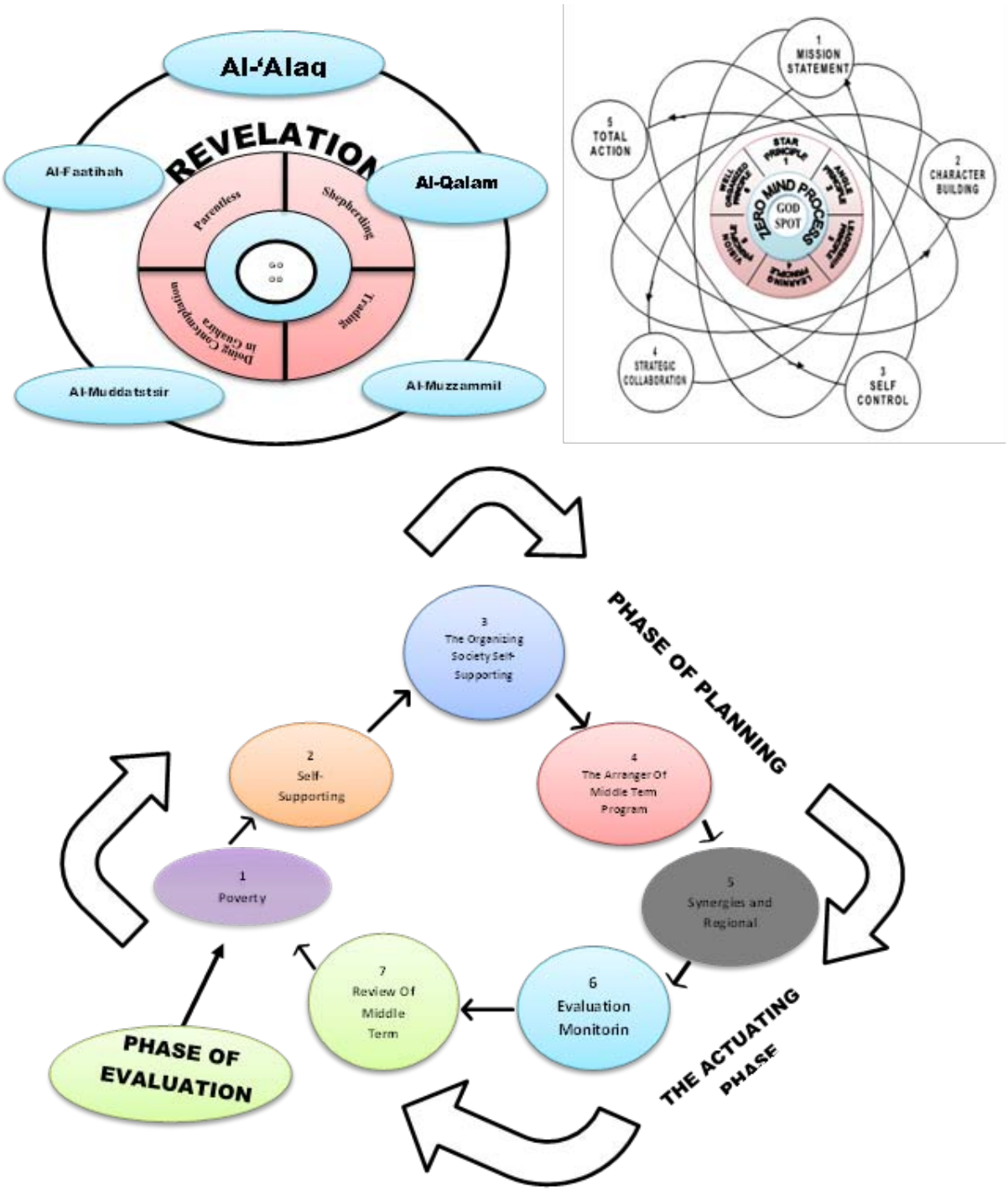

Chart 5: Integralistic Paradigm of Future Village Development

Due to the limitedness of Nature Resource and global competition that is more and more spectacular, it is very much needed innovation from the actor and actress of development that not only have intelligence and skill use participatory development paradigm and/or other alternative paradigms that are regarded to be super strategic. However, even more urgent is that an intelligence of creativity underlain by emotional and spiritual intelligences that can propel someone to actuate their task responsibly.

In actuality, only the intelligent and responsible persons who will be able to carry out their task and will be able to result in a settlement area, make the inhabitants prosperous, and only them who have the value of ESQ *Power* who will not destroy rural social system and do not spread the virus of deforestation, de-culturalization, de-spiritualization, dehumanization, demoralization, and a variety of other social degradation forms. Likewise, only the persons who have integrity who can create a settlement area *"Gemah Ripah Loh*

Jinawi and *Tata Tentrem Kerta Raharjo*" as the pattern and structure of development that bring prosperity and peace.

For that reason, social condition of inhabitant in various aspects becomes main indicator for the progress and backwardness of a society, region, nation, and country. The inhabitants as Human's Resources seem to be more determining in comparison with Natural Resource. However, the both are potencies which must be mutual supporting. But, it is unavoidable that there is a nation and country that *progresses very fast* become industrial countries like Japan. Likewise, in accordance with Tominaga (in Ritzer, 2013) that Japan is supported by the factor of Quality Human's Resource as the result of modification process that keeps developing its hyperrationality. Meanwhile, our nation and country tends to imitate everything that comes from the Western world.

We must begin to realize a very important thing until then we give the priority the process of a very logic evaluation sincerely The reason is that several countries like Indonesian country which is greatly rich with Natural Resources, but all of a sudden goes into underdevelopment country, and even currently begins to be the kind of another under develompment country. Thus, working-ethics of our elitists who are given the responsibility to control the government and administer the potential of Natural Resources have not had intellectual and spiritual quotient and prime and maximal creativity quotient. More than that, as though our social elitist not only lost sense of humanity and sense of responsibility. However, it also lost sense of nationalism because there are a lot of Foreign Labors.

Eventually, it is unavoidable that our beloved nation and country highly misses the presence of our public figure that not only can be exemplified, but also can deliver to the field of social welfare that can make prosperous. It is not bureaucratic and political elites that has the wealth that results in socio-economic gap with the people. It is no longer avoidable that the actors and actresses of development in various fields are reluctant to be responsible in carrying out the task. According to Mulait (2018) in his article that entitles "Mengimani Yesus Kristus Sang Pembebas: Suatu Upaya Berkristologi Dalam Konteks Pemiskinan Gereja Indonesia" that poverty in the Third World (Indonesia) is not a coincidence or just happens, but is a symptom of injustice that arouses the suffering for a lot of people that actually are found in human's capability and responsibility. In this context, the effort of internalizing the spirit of Jesus as the Releaser is a proposition of christology in religion plurality and minority on one hand with the effort of being involved in poverty problems on the other hand, so that it is brave to be involved in socio-political world to state the right thing and save according to the message of the Bible. It means that Opposing the greed and injustice that makes Indonesian society undergo the life against with the dignity as the noble God's creature is a down-to-earth reflection in socio-political and socio-economic problems that become the life determinant of many persons in Indonesia.

In line with that, in accordance with Alyanto (2021) in his article that entitles "Theism, Messianism and Axiology: The Accommodation of Christian Scriptures Against the Problems of Poverty and Impoverishment" that as a matter of fact, having faith is a fact without gap between sky and earth, but having faith becomes meaningful when coming into contact with real world." For that reason, in the poverty and pauperization of Theresa (in Aliyanto, 2021) affirmed that we need a concerted effort in bringing together theological meanings with praxis in the context of the problems of poverty and impoverishment of society. The persons who live in poverty are frequently avoided by a majority of persons because they are regarded as the dirty and sickly people. As a result, it is not surprising that the poverty becomes the source of criminal due to economic problems. Likewise, in accordance with Stott (in Aliyanto, 2021) that one of the approaches of Christian people towards poverty problem is stimulating both our mind and emotion simultaneously to look for the bases of poverty overcoming by making Theism, Mesianism, and axiologism to be present that becomes the task of every human being that has obtained the bestow of forgiveness from the God.

When the fund of *Zakat*, *Infaq* and *sedeqah* is handled in participatory manner, the philanthropy of Islam can become solution for the society on poverty problems that happened. The effort of poverty reduction that can be done is by handling the fund that has been got from philanthropy of Islam well and productively. Nevertheless, there must be some fund given to the consumptive society. When the fund of philanthropy of Islam is handled well and productively, the fund will not be finished up until anytime and can even develop so that its utilization will be increasingly bigger and larger, whereas the fund of philanthropy of Islam that is consumptive can also increase the demand and society's buying-capability, so that the society is increasingly prosperous. Meanwhile, the fund that is productive can increase the activity of investment and productivity of company (activity of business) so that it can also elevate the using of man power (reducing unemployment) and finally can enhance the prosperity and reduce poverty (Rizal and Mukoramah, 2021).

IV. Conclusión

We should start working to develop an integrated rural development formulation by integrating the partispative development paradigm with the potential cultural values of Kalosara and ESQ Power. Thus, the use of participatory development paradigms becomes comprehensive, because it looks not only based on local cultural values. However, also in a

participatory development formulation based on the potential value of ESQ Power, so that structural, cultural and spiritual approaches seem to be integrally and interdependently intertwined. Maximization of understanding and perception and application of ESQ Power-based paradigm as an integralistic paradigm is not only able to get rid of pseudo awareness and false consciousness (false consciousness) in the mind and conscience of the empowerment actor. However, it will also be able to produce internal motivated and sense of responsibility as a reflection of the intentions of social worship. Inevitably, the potential of ESQ Power based on 6 cycles of Rukun Iman, 5 cycles of Islamic Rukum and 7 cycles of empowerment is synchronized as the main key in an integrated village development strategy. Only intelligent people carrying out trust and responsible intelligence will be able to give birth to a rural area and be able to prosper its inhabitants. And only those who have ESQ Power values have individual and social toughness, so they will not decodify rural social systems and do not spread deforestation viruses, deculturation, desprituization, dehumanization, demoralization and various other forms of social degradation. Finally, all components of the sons and daughters of this beloved nation and country must immediately realize that efforts to improve the quality of human resources in the future, should begin with a very fundamental principle that the basis of human intelligence is in the space of spiritual awareness. Rural areas now get the opportunity to grow and develop quickly towards Maju Village and Mandiri Village during the Disbursement of Village Fund Budget. But to realize the efficient and effective use of Village Funds, the Research Team recommends to start organizing a Kalosara Culture-based Musrenbang and utilizing the paradigm of participatory development based on ESQ Power.

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Some Solutions to Enhance the Youth's Social Responsibilities

By Long Nguyen Huu

Abstract- The article is based on a number of legal bases regulating the youth's responsibilities and proposes some solutions to enhance their social responsibilities in accordance with the current context. The research was conducted on 207 subjects who are officials working in fields related to youth affairs in 5 provinces/cities by using questionnaire survey and in-depth interviews. Research results show that, in the groups of solutions surveyed, all are at a good level (highly feasible level). Among the 4 solution groups, the solution group related to training and fostering has the highest mean score and the solution group related to developing legal documents and policies for youth has a lower level. However, there is not any group of solutions with low feasibility.

Keywords: youth, social responsibilities, solutions to enhance social responsibilities.

GJHSS-C Classification: LCC Code: HQ799.2.Y68

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I. Introduction

In the Resolution of the Fourth Conference of the Central Executive Committee of the Communist Party of Vietnam, term VII on youth affairs in the new period, it was affirmed: "*Youth are the driving force in the cause of building and protecting the Fatherland. The cause of innovation is successful or not, the country entering the 21st century has a worthy position in the world community or not, the Vietnamese revolution firmly follows the socialist path or not, they largely depends on belongs to the youth force, to fostering and training the youth generation; Youth affairs is a matter of survival for the nation, one of the factors determining the success or failure of the revolution*" [6]. Youth are a very important part in the career of building and protecting the homeland, and are the country's future owners. The participation of youth in all fronts to develop the country is considered an essential resource and a necessary condition to join social forces to build and rebuild the country. For that reason, each young person must see his true responsibilities to the country, the society, his family and himself.

In Chapter II, the Youth Law (amended 2020) regulates the responsibilities of young people including 4 Articles (from Article 12 to Article 15): Responsibilities to the Fatherland, responsibilities to society, responsibilities to family and responsibilities to family. responsibilities to themselves. These are very specific and detailed expressions of the youth's responsibilities to both ensure benefits and fulfill the responsibilities of a young person. Specifically: (1) responsibilities to the Fatherland includes: Thông tin bảo mật, promoting the nation's tradition of building and defending the country; to be proactive, creative, and at the forefront of innovation, building and protecting the socialist Vietnamese Fatherland. Second, be ready to defend the Fatherland, protect the independence, preserve the sovereignty, national security, unity and the territorial integrity; undertake difficult, arduous and urgent work when the Fatherland requires it. Third, fight against plots and activities that are harmful to national and ethnic interests; (2) social responsibilities includes: Firstly, exemplary compliance with policies, laws and fulfillment of civic obligations. Second, participate in maintaining order, social safety, national defense and security. Third, proactively propose ideas and initiatives in the process of developing policies and laws; Participate in State and social management. Fourth, actively participate in propagandizing and mobilizing people to comply and execute the Constitution and laws. Fifth, build production and business models to create jobs; Participate in environmental protection and activities for the benefit of the community and society. Sixth, actively participate in children care, education and protection activities; (3) family responsibilities include: Firstly, take care of family happiness; Preserve and promote the good traditions of the Vietnamese family. Second, respect and be filial piety towards grandparents and parents and respect other family members; Care for and educate children in the family. Third, actively prevent and combat domestic violence, eliminate outdated customs and practices regarding marriage and family and (4) responsibilities for oneself including: Firstly, practise and enhance morality, personality, cultural lifestyle, civilized behavior; have civic responsibilities and be aware of obeying the law; Prevent and combat negativity, social evils, illegal acts and social immoral acts. Second, actively study and enhance qualifications, knowledge and skills; approach, research, and apply science and technology into practice. Third, proactively learn about the labor market; choose a suitable career and job; Cultivate a sense of responsibilities, labor discipline and professional behavior; Creativity, technical innovation, and increased labor productivity. Fourth, implement, protect, care for, enhance the health, develop physically and mentally; Equip with knowledge, life skills, reproductive health care skills, sexual health, disease prevention and control; Do not abuse alcohol or beer; limit tobacco use; Do not use drugs, narcotics and other stimulants prohibited by law; Prevent and combat

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harm from cyberspace. Fifth, actively participate in healthy cultural and sports activities and movements; protect, preserve and promote national cultural identity, obtain the quintessence of human culture [1].

We understand that people are always social people. Each person in the social system always exists in the following relationships: relationships with others; relationship with the collective; relationship with society; relationship with nature; relationship with itself. All of those relationships take place first and foremost in human material and spiritual production activities. This is the theoretical basis that allows considering the issue of social responsibility in terms of its origin as well as its level and structure. Social responsibilities play an important role in strengthening bonds between individuals and cohesion in society. Social responsibilities are also an expression of how closely individuals are connected to a community and their state as well as their sense of belonging to family, society and country. On the contrary, ignorance about our lack of social responsibilities, or having a weak sense of social responsibilities among individuals, is a serious threat to society.

In another research made by the author on the expression of social responsibilities of young people, it was initially shown that the majority of Vietnamese youth are aware and take action to demonstrate their social responsibilities to the Fatherland, society, family and themselves. However, among the four groups of responsibilities, responsibilities to the Fatherland and responsibilities to society have the lowest mean score. Thus, in order for young people to be ready to carry out their own social responsibilities and have uniformity in responsibilities groups, it is necessary to build solutions to help young people have the right awareness and action to carry out their social responsibilities which is an extremely important job [2].

In order for Vietnamese youth to have a sense of social responsibilities, we need to have specific tasks and jobs to help them such as: (1) strengthen the leadership and management of Party committees and local authorities in implementing social responsibilities, Party committees at all levels, especially heads of Party committees and organizations, must regularly grasp, orientate and inspect the implementation of youth work; (2) strengthen the education of ideals, revolutionary ethics, cultural lifestyle, and civic awareness to form a generation of young people with good qualities, courage, and determination to take action and successfully industrialize and modernize the country. (3) apply the achievements of information technology to enhance the youth's social responsibilities. Build a healthy social environment, creating conditions for young people to enhance their cultural and spiritual life and develop comprehensively; (4) focus on training and fostering a team of Union, association, and team officials with good qualities, ethics, and capacity and intelligence in economic management, social culture, and law, science and technology, environmental protection,... (5) focus on promulgating policies and mobilizing all social resources to train and enhance the quality of young workers, create jobs, and increase income for young people, ...; (6) create mechanisms and policies so that all young talents can participate in all fields; strongly arrange young officials to take on important positions in the political system, increase the ratio of young officials in leading and management agencies at all levels and sectors [3], [9].

From these studies, we propose 4 groups of related solutions and survey the feasibility of these solution groups by 2 main research methods: survey (quantitative) and interview (qualitative) to find out the feasibility of these solutions, thereby drawing conclusions on the issue to enhance the youth's social responsibilities in the current context.

II. Research Subjects and Methods

a) Research subjects

The research surveyed 207 young people, in addition, the research conducted interviews with a number of officials working in state management of youth, youth affairs, and youth from 5 provinces/cities (Ho Chi Minh City, Quang Ngai, Da Nang, Kien Giang and Hanoi). The research sample was distributed almost evenly among 5 provinces/cities, each group had 40 - 50 subjects, accounting for 20%.

The selection of research subjects in the above provinces/cities is both regionally representative and closely tied to the characteristics of local youth.

b) Research methodology

In this research, we use questionnaire survey and in-depth interviews. The questionnaire includes a scale built based on the theory of the youth's social responsibilities, including 20 items, expressed through 4 groups of solutions to enhance the youth's social responsibilities: Group of solutions related to the direction and leadership; Group of solutions related to developing legal documents and policies for youth; Group of solutions related to training and fostering; Group of solutions related to organizations with functions and tasks of state management of youth and youth work or assigned tasks related to youth. Each item has 4 answer options: 1 point - Not feasible, 2 points - Less feasible, 3 points - Feasible and 4 points - Very feasible. Thus, the larger the mean score (M), the more feasible the solution is, and the smaller the mean score, the less feasible the solution. Based on the formula for calculating the mean score range: (n -1)/n, taken from the highest point of the scale (4) minus the lowest point of the scale (1) and divided by 4 levels. The difference score of each level is 0.75. The evaluation scale is divided based on the following score levels: Mean score from 1.0 to 1.75 - low feasibility; Mean score

from 1.76 to 2.50: shows average feasibility; Mean score from 2.51 to 3.25: shows feasibility at a relatively good level (fair); Mean score from 3.26 to 4.00: shows good feasibility.

Using reliability testing shows that the Youth's Social Responsibilities Expression scale has a Cronbach' Alpha coefficient of 0.91.

In-depth interviews were conducted with a number of subjects, including experts, lecturers specializing in youth affairs, and officials working in youth-related fields, to find out their assessments of the solutions or measures to enhance the youth's social responsibilities with the aim of ensuring the objectivity in assessment.

III. Research Results and Discussion

a) Group of solutions related to the direction and leadership

Table 1: Feasibility of solutions related to the direction and leadership

No.	Expression	Result				M	SD	Ranking
		Not feasible	Less feasible	Feasible	Very feasible			
1	Strengthen the state's direction and management on youth	0	10,0%	65,2%	24,8%	3,15	0,57	5
2	Strengthen the direction and review of the youth-related policy implementation at all levels	0	5,9%	53,0%	41,1%	3,35	0,59	3
3	Strengthen the inspection and evaluation of leadership of all local levels on state management of youth and youth work	0	7,0%	57,4%	35,6%	3,29	0,59	4
4	Direct localities to pay attention to supporting youth (talented, disadvantaged, start-up,...)	0	3,3%	46,3%	50,4%	3,47	0,56	1
5	Increase meetings and listen to the youth's opinions and aspirations	0	5,2%	51,1%	43,7%	3,39	0,58	2
Total		0	6,3%	54,6%	39,1%	3,33		

The results in table 1 show that, among the expression of solutions related to direction and leadership, the solution with the highest mean score of 3.47 and the rate of choosing a very feasible level of over 50% is the solution. "*Direct localities to pay attention to supporting youth (talented, disadvantaged, start-up,...)*". With this result, we see that target groups have affirmed that youth support work needs attention so that young people can feel the concern of leaders and authorities, thereby helping them realize own role and position in society. In addition, 2 groups of solutions related to listening to youth opinions and the group of solutions related to direction and orientation also had the 2nd and 3rd highest mean scores in the survey results, the mean scores are 3.39 and 3.35 respectively. This result also confirms that: pay attention to young people, listen to young people, thereby helping to guide and direct work appropriately and according to the youth's wishes. This result also shows that the work of listening to the youth and directing at all levels must always be given top priority so that localities can promptly develop strategies or identify specific solutions to help youth increase their social responsibilities.

Combining with the survey method also gives similar results. The research conducted an interview with comrade T.P - Secretary of the Youth Union of D.X district, Quang Nam province through the question: "*In order for local youth to have a more responsible spirit, what do you think we need to do?* ". Comrade T.P said: "*For young people, the most important thing is to show them what support they receive in life, whether the State's policies are for their own interests or not ? In order for them to see clearly and fulfill their responsibilities to society and the community, they must also clearly see their rights. We cannot ask someone to be responsible without showing him his rights!*" Comrade L.T.T.L - Officer of the Ho Chi Minh City's Government Construction and Youth Work Department added: "*In state management, solutions to direction, inspection and supervision always play an important role to help monitor whether policy implementation at all levels is effective. With young people, a very special subject in*

management work, the development of policies for youth must be closely linked to the needs of young people. Therefore, understanding the young people's thoughts and aspirations and thereby designing strategies and building synchronous solutions at all levels to help young people have awareness and take action to demonstrate responsibilities is important...".

b) Group of solutions related to developing legal documents and policies for youth

Table 2: Feasibility of solution groups related to developing legal documents and policies

No.	Expression	Result				M	SD	Ranking
		Not feasible	Less feasible	Feasible	Very feasible			
1	Adjust the system of the youth-related legal documents to suit the actual situation	0	12,6%	67,4%	20,0%	3,07	0,57	4
2	Research and propose policies to support the youth startups	0	10,7%	67,4%	21,9%	3,11	0,56	3
3	Mobilize all resources to support the youth's comprehensive development	0	16,3%	64,1%	19,6%	3,03	0,60	5
4	Create special mechanisms and policies for talented youth	0	5,6%	57,0%	37,4%	3,32	0,57	1
5	Encourage youth to participate in state management in all fields	0	7,0%	58,9%	34,1%	3,27	0,58	2
Total		0	10,4%	63,0%	26,6%	3,16		

The results of table 2 show that, in the group "*Solutions related to developing legal documents and policies for youth*", "*Create special mechanisms and policies for talented youth*" and "*Encourage the youth to participate in state management in all fields*" are 2 of the 5 most highly rated solutions. With nearly 90% from feasibility level or above and mean scores of 3.32 and 3.27 respectively - very high levels in the evaluation scale. This result once again shows the importance of having specific policies for young people because this is a group of young people, with many ambitions and aspirations but also certain limitations in terms of work experience. Good communication is a driving force at work. Therefore, they are both a resource but at the same time an object that needs guidance and a training environment to grow. On the other hand, young people themselves do not have confidence when asked to participate in management and leadership. Encouraging or creating more specific mechanisms for this team to participate in carrying out responsibilities in the organization is something that leaders and managers need to pay more attention to, such as: sending young people to study and train to enhance their skills. qualifications, have policies that both encourage and "assign tasks" so that young people are courageous, confident and have the opportunity to demonstrate specific actions and responsibilities to the Fatherland and societ and with themselves.

One of the principles of developing legal documents is: Ensuring feasibility, savings, efficiency, timeliness, ease of implementation, gender requirements and administrative procedures, ensuring rights consistent with related target groups. Thus, the research results in Table 2 also show the importance of the process of developing legal documents or developing youth development policies. Policy is only effective when it is linked to reality and solves the actual situation. When being asked about: "*Does the unit issue documents or have a mechanism to encourage young civil servants to participate in management work?*". Comrade M.T.D - officer of the Internal Affairs Department of NH district, Ninh Thuan province, said: "*The home province and district are very interested in training, fostering and creating favorable conditions for young people to develop their working capacity. The province also has documents concretizing the Youth Strategy through stages. The province also assigns the Provincial Youth Union to advise on the development of the youth team, etc. Similarly, at the district level, there are always policies to support and create conditions for young people to both demonstrate their own abilities and demonstrate their responsibilities towards the*

organization,...". This result is also similar to the survey results in Table 2.

c) *Group of solutions related to training and fostering the youth*

Table 3: Feasibility of solutions related to training and fostering

No.	Expression	Result				M	SD	Ranking
		Not feasible	Less feasible	Feasible	Very feasible			
1	Strengthen the education for young people	0	6,7%	58,1%	35,2%	3,29	0,58	5
2	Develop a program to foster revolutionary ideals for young people	0	3,3%	48,5%	48,1%	3,45	0,56	3
3	Regularly organize youth exchanges (seminars, competitions, etc.)	0	4,4%	53,0%	42,6%	3,38	0,57	4
4	Flexibly insert content related to youth law, policy, etc. into the educational program	0	1,1%	41,5%	57,4%	3,56	0,52	1
5	Evaluate and classify youth characteristics to manage and promote the youth's strengths	0	2,6%	46,7%	50,7%	3,48	0,55	2
Total		0	3,6%	49,6%	46,8%	3,43		

The results in table 3 show that, with an mean score of 3.43 and 96.3% from feasible to very feasible, this is the most effective solution among the 4 solution groups included in the survey. The results of this research are consistent and true to what the Party and State have determined: youth are the core force in the work of building and protecting the Fatherland. To carry out their mission, young people must be trained and fostered to enhance their capacity, practice political qualities, etc. Therefore, no matter the circumstances, we must always pay attention to training young people to meet the requirements of the times. Uncle Ho once said: "*The advantage of our youth is their enthusiasm and volunteer spirit. The shortcomings are trending on empty formality, illusory; impractical, individualism, self-proclaimed hero syndrome. I hope that all our youth will strive to develop their strengths and eliminate their shortcomings. The badge of our youth is "holding flag with a red background and a yellow star and moving forward ". It means: The youth must volunteer to be an exemplary role model in work, in learning, in progress, in revolutionary ethics. Youth must become a large and solid force in the resistance war and national construction. At the same time, the youth must be cheerful and vivacious. I hope each of you and all young men and women will try to fulfill your duties, to be worthy of that beautiful and glorious badge*" [4]. The training and education of young people on one hand to become the next team to lead the country, on the other hand is an opportunity for them to present their responsibilities to the Fatherland, the society, ... then the Law on Youth as well as the Regulations on the youth's social responsibilities are more practical and consistent, not only with the above policies issued but also suitable for the relevant subjects whom are young people.

Among the results in table 3 for the "Group of solutions related to youth training and fostering", the "Flexibly insert content related to youth law, policy, etc. into the educational program" solution with an mean score of 3.56 - a very high score on the evaluation scale along with nearly 100% of assessments being feasible or higher, showing that being equipped with knowledge of the State laws, policies that approach to youth is extremely important. In the current context with the development of modern technology, young people had and have the opportunity to access both official and fringe information that affects the youth's thoughts and feelings. Moreover, according to research results on this group of solutions, all other remaining solutions have an mean score above 3.25 - a very high score on the evaluation scale. Therefore, to strengthen the youth's social responsibilities, training and fostering should be carried out to equip young people with a correct awareness of political ideology and views of the Party, State and Government on issues social issues, about youth,... Create an environment for young people to have the opportunity to study, train and challenge themselves to be ready to carry out their responsibilities to the Fatherland, the society, their families and themselves in a more appropriate and accurate way.

d) *Group of solutions related to organizations with functions and tasks of state management of youth and youth work or assigned tasks related to youth.*

Table 4: Feasibility of solutions for youth-related organizations

No.	Expression	Result				M	SD	Ranking
		Not feasible	Less feasible	Feasible	Very feasible			
1	Train the state management team on youth and youth work that is sufficient in quantity and quality	0	1,5%	55,6%	43,0%	3,41	0,52	2
2	Apply scientific and technological achievements to the management and organization of youth movements	0	2,2%	60,7%	37,0%	3,35	0,52	3
3	The Ho Chi Minh Communist Youth Union organization needs to develop a youth development strategy	0	4,8%	62,6%	32,6%	3,28	0,55	5
4	The Ho Chi Minh Communist Youth Union at all levels continues to advise leaders at all levels on issues related to youth.	0	0,7%	49,6%	49,6%	3,49	0,52	1
5	Timely praise and reward innovative and exemplary youth	0	3,7%	63,0%	33,3%	3,30	0,53	4
Total		0	2,6%	58,3%	39,1%	3,37		

The results in Table 4 show that this is also a group of solutions that survey respondents rated as a very effective one, with an mean score of 3.37 - a very high level on the evaluation scale, over 97% from feasible to very feasible and ranked 2nd among 4 groups of solutions surveyed. This result confirms the role of organizations related to youth - including the Ho Chi Minh Communist Youth Union. The role of the Ho Chi Minh Communist Youth Union organization is increasingly affirmed as a key role in helping young people demonstrate their social responsibilities through "...continues to advise leaders of issues related to youth" with an mean score of 3.49 - a very high level on the evaluation scale and above 99% from feasible to very feasible. Thus, to help young people increase their social responsibilities, building youth development strategies, priority policies or work related to this group plays an important role because only so, young people can see themselves in the activities of the state, they can easily participate in all aspects of social life to develop themselves and contribute to building the country. The results in table 4 also show that: the solution "Train the state management team on youth and youth work that is sufficient in quantity and quality" is also of interest to the subjects with the second position in the related solutions, mean score 3.41 - high on the evaluation scale. This result not only speaks to the importance of the team working on state management of youth, but also refers to a current situation related to the training and building of a team of state management officials on the youth issues.

Combined with the interview method, the research was conducted with the question "*Comrade, how is the current decentralized state management of youth in your province implemented?*". Comrade T.H.T.H - Officer working at the Department of Home Affairs of a province said, "*In terms of state management of youth and youth work, it is in charge of vertical branches - Ministry of Home Affairs, Department of Home Affairs and Office of Home Affairs. At each level there will be one officer working on youth work, so the state will mainly grasp the mechanical aspect. As for issues of political ideology, capacity,... or creating an environment for youth to participate in activities, it is up to other organizations such as: for example, Youth Union at all levels...*". With the same question above, in a training class on Youth Union work skills, when asked, a commune secretary of the Youth Union in Kien Giang province added: "*The function of the local Youth Union is to grasp the situation of thoughts, feelings or problems that arise to report to superiors. In addition, activities will be organized and young people will be invited to participate. Along with that, we advise on a number of other issues related to youth such as: loans, support, and other issues such as demographic management, security and order situation of youth shall be taken care by other departments …* ".

Thus, we see that in the issue of building a team to manage or support young people, there is currently a clear hierarchy and responsibilities for each unit, but somewhere we still see fragmentation and lack of synchronous coordination to help young people develop or have opportunities to contribute or demonstrate their social responsibilities.

IV. Conclusion

The youth's social responsibilities are clearly regulated in the legal system and in real life. Each young person is a cell of the society and society only develops in the present or in the future, so this cell needs to be cared for and nurtured by the most appropriate way. On the other hand, the youth team needs to be clearly aware of their own responsibilities to both ensure personal interests and at the same time be responsible to the Fatherland, to society, to their families and to themselves.

Research results show that of the 4 groups of solutions included in the survey to enhance the youth's social responsibilities, the group of solutions related to training and fostering the youth is the most feasible group of solutions. On the other hand, the research also shows that all four groups of solutions are highly feasible and can be applied in practice to enhance the youth's social responsibilities in the current context.

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Memberships

Fellows/Associates of Social Science Research Council

FSSRC/ASSRC Memberships

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FSSRC/ASSRC is the most prestigious membership of Global Journals accredited by Open Association of Research Society, U.S.A (OARS). The credentials of Fellow and Associate designations signify that the researcher has gained the knowledge of the fundamental and high-level concepts, and is a subject matter expert, proficient in an expertise course covering the professional code of conduct, and follows recognized standards of practice. The credentials are designated only to the researchers, scientists, and professionals that have been selected by a rigorous process by our Editorial Board and Management Board.

Associates of FSSRC/ASSRC are scientists and researchers from around the world are working on projects/researches that have huge potentials. Members support Global Journals' mission to advance technology for humanity and the profession.

FSSRC

Fellow of Social Science Research Council

FELLOW OF SOCIAL SCIENCE RESEARCH COUNCIL is the most prestigious membership of Global Journals. It is an award and membership granted to individuals that the Open Association of Research Society judges to have made a 'substantial contribution to the improvement of computer science, technology, and electronics engineering.

The primary objective is to recognize the leaders in research and scientific fields of the current era with a global perspective and to create a channel between them and other researchers for better exposure and knowledge sharing. Members are most eminent scientists, engineers, and technologists from all across the world. Fellows are elected for life through a peer review process on the basis of excellence in the respective domain. There is no limit on the number of new nominations made in any year. Each year, the Open Association of Research Society elect up to 12 new Fellow Members.

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

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

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2. Authors must accept the privacy policy, terms, and conditions of Global Journals.
3. Ensure corresponding author's email address and postal address are accurate and reachable.
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2. Drafting the paper and revising it critically regarding important academic content.
3. Final approval of the version of the paper to be published.

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Unless specified in the notification, the Editorial Board's decision on publication of the paper is final and cannot be appealed before making the major change in the manuscript.

Acknowledgments

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

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

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

Structure and Format of Manuscript

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

A research paper must include:

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

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

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

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

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

Format Structure

It is necessary that authors take care in submitting a manuscript that is written in simple language and adheres to published guidelines.

All manuscripts submitted to Global Journals should include:

Title

The title page must carry an informative title that reflects the content, a running title (less than 45 characters together with spaces), names of the authors and co-authors, and the place(s) where the work was carried out.

Author details

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

Abstract

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

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

Keywords

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

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

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

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

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

Numerical Methods

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

Abbreviations

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

Formulas and equations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Informal Guidelines of Research Paper Writing

Key points to remember:

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

Final points:

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

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

The discussion section:

This will provide understanding of the data and projections as to the implications of the results. The use of good quality references throughout the paper will give the effort trustworthiness by representing an alertness to prior workings.

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

General style:

Specific editorial column necessities for compliance of a manuscript will always take over from directions in these general guidelines.

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

Mistakes to avoid:

- Insertion of a title at the foot of a page with subsequent text on the next page.
- Separating a table, chart, or figure—confine each to a single page.
- Submitting a manuscript with pages out of sequence.
- In every section of your document, use standard writing style, including articles ("a" and "the").
- Keep paying attention to the topic of the paper.
- Use paragraphs to split each significant point (excluding the abstract).
- Align the primary line of each section.
- Present your points in sound order.
- Use present tense to report well-accepted matters.
- Use past tense to describe specific results.
- Do not use familiar wording; don't address the reviewer directly. Don't use slang or superlatives.
- Avoid use of extra pictures—include only those figures essential to presenting results.

Title page:

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

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

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

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

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

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

Approach:

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

Introduction:

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

The following approach can create a valuable beginning:

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

Approach:

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

As always, give awareness to spelling, simplicity, and correctness of sentences and phrases.

Procedures (methods and materials):

This part is supposed to be the easiest to carve if you have good skills. A soundly written procedures segment allows a capable scientist to replicate your results. Present precise information about your supplies. The suppliers and clarity of reagents can be helpful bits of information. Present methods in sequential order, but linked methodologies can be grouped as a segment. Be concise when relating the protocols. Attempt to give the least amount of information that would permit another capable scientist to replicate your outcome, but be cautious that vital information is integrated. The use of subheadings is suggested and ought to be synchronized with the results section.

When a technique is used that has been well-described in another section, mention the specific item describing the way, but draw the basic principle while stating the situation. The purpose is to show all particular resources and broad procedures so that another person may use some or all of the methods in one more study or referee the scientific value of your work. It is not to be a step-by-step report of the whole thing you did, nor is a methods section a set of orders.

Materials:

Materials may be reported in part of a section or else they may be recognized along with your measures.

Methods:

- Report the method and not the particulars of each process that engaged the same methodology.
- Describe the method entirely.
- To be succinct, present methods under headings dedicated to specific dealings or groups of measures.
- Simplify—detail how procedures were completed, not how they were performed on a particular day.
- If well-known procedures were used, account for the procedure by name, possibly with a reference, and that's all.

Approach:

It is embarrassing to use vigorous voice when documenting methods without using first person, which would focus the reviewer's interest on the researcher rather than the job. As a result, when writing up the methods, most authors use third person passive voice.

Use standard style in this and every other part of the paper—avoid familiar lists, and use full sentences.

What to keep away from:

- Resources and methods are not a set of information.
- Skip all descriptive information and surroundings—save it for the argument.
- Leave out information that is immaterial to a third party.

Results:

The principle of a results segment is to present and demonstrate your conclusion. Create this part as entirely objective details of the outcome, and save all understanding for the discussion.

The page length of this segment is set by the sum and types of data to be reported. Use statistics and tables, if suitable, to present consequences most efficiently.

You must clearly differentiate material which would usually be incorporated in a study editorial from any unprocessed data or additional appendix matter that would not be available. In fact, such matters should not be submitted at all except if requested by the instructor.

Content:

- Sum up your conclusions in text and demonstrate them, if suitable, with figures and tables.
- In the manuscript, explain each of your consequences, and point the reader to remarks that are most appropriate.
- Present a background, such as by describing the question that was addressed by creation of an exacting study.
- Explain results of control experiments and give remarks that are not accessible in a prescribed figure or table, if appropriate.
- Examine your data, then prepare the analyzed (transformed) data in the form of a figure (graph), table, or manuscript.

What to stay away from:

- Do not discuss or infer your outcome, report surrounding information, or try to explain anything.
- Do not include raw data or intermediate calculations in a research manuscript.
- Do not present similar data more than once.
- A manuscript should complement any figures or tables, not duplicate information.
- Never confuse figures with tables—there is a difference.

Approach:

As always, use past tense when you submit your results, and put the whole thing in a reasonable order.

Put figures and tables, appropriately numbered, in order at the end of the report.

If you desire, you may place your figures and tables properly within the text of your results section.

Figures and tables:

If you put figures and tables at the end of some details, make certain that they are visibly distinguished from any attached appendix materials, such as raw facts. Whatever the position, each table must be titled, numbered one after the other, and include a heading. All figures and tables must be divided from the text.

Discussion:

The discussion is expected to be the trickiest segment to write. A lot of papers submitted to the journal are discarded based on problems with the discussion. There is no rule for how long an argument should be.

Position your understanding of the outcome visibly to lead the reviewer through your conclusions, and then finish the paper with a summing up of the implications of the study. The purpose here is to offer an understanding of your results and support all of your conclusions, using facts from your research and generally accepted information, if suitable. The implication of results should be fully described.

Infer your data in the conversation in suitable depth. This means that when you clarify an observable fact, you must explain mechanisms that may account for the observation. If your results vary from your prospect, make clear why that may have happened. If your results agree, then explain the theory that the proof supported. It is never suitable to just state that the data approved the prospect, and let it drop at that. Make a decision as to whether each premise is supported or discarded or if you cannot make a conclusion with assurance. Do not just dismiss a study or part of a study as "uncertain."

Research papers are not acknowledged if the work is imperfect. Draw what conclusions you can based upon the results that you have, and take care of the study as a finished work.

- You may propose future guidelines, such as how an experiment might be personalized to accomplish a new idea.
- Give details of all of your remarks as much as possible, focusing on mechanisms.
- Make a decision as to whether the tentative design sufficiently addressed the theory and whether or not it was correctly restricted. Try to present substitute explanations if they are sensible alternatives.
- One piece of research will not counter an overall question, so maintain the large picture in mind. Where do you go next? The best studies unlock new avenues of study. What questions remain?
- Recommendations for detailed papers will offer supplementary suggestions.

Approach:

When you refer to information, differentiate data generated by your own studies from other available information. Present work done by specific persons (including you) in past tense.

Describe generally acknowledged facts and main beliefs in present tense.

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Topics	Grades		
	A-B	**C-D**	**E-F**
Abstract	Clear and concise with appropriate content, Correct format. 200 words or below	Unclear summary and no specific data, Incorrect form Above 200 words	No specific data with ambiguous information Above 250 words
Introduction	Containing all background details with clear goal and appropriate details, flow specification, no grammar and spelling mistake, well organized sentence and paragraph, reference cited	Unclear and confusing data, appropriate format, grammar and spelling errors with unorganized matter	Out of place depth and content, hazy format
Methods and Procedures	Clear and to the point with well arranged paragraph, precision and accuracy of facts and figures, well organized subheads	Difficult to comprehend with embarrassed text, too much explanation but completed	Incorrect and unorganized structure with hazy meaning
Result	Well organized, Clear and specific, Correct units with precision, correct data, well structuring of paragraph, no grammar and spelling mistake	Complete and embarrassed text, difficult to comprehend	Irregular format with wrong facts and figures
Discussion	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
References	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring

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