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THE NATIONAL MINIMUM WAGE ACT, 2011: ANTITHETICAL TO TRUE FEDERALISM IN NIGERIA

ABSTRACT

Minimum wage and other labour related issues including Trade Unions, Industrial Relations conditions, safety and welfare of labour are in the Exclusive Legislative List which is within the competence of the Federal Government to legislate on. On 23rd March, 2011, the National Assembly enacted a law code named National Minimum Wage Act, 2011 and signed into law by President Goodluck Jonathan on 22nd May, 2011. The Act pegged the wages of Nigerian workers of both public and private sectors to Eighteen Thousand Naira (#18,000.00). The State Governors though participated in the negotiation and fixing of the said wage before it cannot impose minimum wage on State Governments in a Federation as it violates its autonomy which is the cardinal principles of Federalism. The refusal of the State Governors to implement the Wage Act ignited industrial unrest from across the States of the Federation. This paper discusses the propriety or impropriety of the passage of the Minimum Wage Act, 2011 by the National Assembly and signing same into law by the Nigerian President. The paper contends that the Act is an invasion of the autonomy of States in a federation, which has the right under the principle of Federalism to negotiate and fix wages for their respective workers within the limit of their available resources.

BY: UWAKWE, F.C. ESQ

CORPORATE GOVERNANCE AND THE ROLE OF EMPLOYEE

ABSTRACT

This paper appraised the various definitions of Corporate Governance, traced the evolution of Corporate Governance and its reception into Nigerian Legal System. We also discuss the objectives of the various Corporate Governance Codes, some principles of good Corporate Governance, the role of the employee in conjunction with other stakeholders in Corporate Governance and concluded the paper by applauding the current effort of Financial Reporting Council in harmonizing the Codes of Corporate Governance into one single and comprehensive document in Nigeria in order to eradicate confusion and the need to enlist employees into the web of Corporate Governance for the success of our public and private enterprises in Nigeria.

BY: GBENGA ADERIBIGBE





**COPYRIGHT UNDER THE NIGERIAN COPYRIGHT LAW: AN INCENTIVE TO INTELLECTUAL PROPERTY
CREATION**

ABSTRACT

It is a statement of fact that every human creature is naturally endowed with one potential or the other. It is also an indisputable fact that the development and advancement of modern day society is dependent on human ingenuity, innovations, inventions and creativity especially what the thinkers term the present civilization "the jet age". In the present jet age, the world had witnessed and still witnessing astronomical advancement in scientific and technological innovations with its attendant's impacts on the world legal's systems, disrupting traditional modes of protecting intellectual property leaving the law completely in a state of flux, due to the ever changing form of innovations namely computers including palmtops and hi-tech phones, satellite and cable receivers/signals, facsimile transmissions and the increasing growing internet. If this assertion is accepted as a correct statement of fact, it is therefore amazing to note that man throughout the world including Nigeria creates intangible estates devoid of actual protection amidst the existence of necessary legal protection. Thus, in Nigeria, the Copyright Law purports to protect intellectual property including digital innovations, notwithstanding this, Nigeria remains the largest piracy destination and market of intellectual property in the world, hence discouraging further creation of incorporeal estate with its attendants consequences of retarding the nation socio-economic and technological advancements. It is against this background that this research is set out to examine the legal concept of copyright not only as a protective device against infringement of the products of intellectual creativity, innovation and invention of the creator but also as an incentive to the creation of further intellectual property coupled with its harem of challenges preventing the implementation and actualization of the intendments of the copyright law. Since creations, inventions and innovations amounting to intellectual properties are numerous, this research will therefore focus mainly on digital innovations but will briefly mentions category of works falling within the purview of copyright protection. To achieve these objectives amongst others, this research is therefore divided into five segments as follows: Section one deals with the introductory part of the work while section two examines the jurisprudential analysis of key terms (i.e copyright and intellectual property). In section three, the research examine the nature of digital works subject to copyright, while section four deal with copyright protection of digital innovations both under the international law as well as under the Nigerian law as way of curbing piracy and copyright infringement of digital innovations. Section five proposes extral-legal measures, such as administrative, social, judicial and technological to tame the tide of an otherwise purely socio-legal problems, afterall every "technological poison comes with a technological antidotes and generally toward solving the challenges and other mischief's facing the implementation of copyright law (i.e copyright infringement of digital innovations as associated with the Nigerian Copyright Law and Practice and finally conclusion being the thrust of section six

BY:

ABDULMALIK, S.M.ESQ





SUSTAINABLE DEVELOPMENT: THE ROLE OF PRECAUTIONARY PRINCIPLE IN ADVANCING ISLAMIC BANKING IN NIGERIA

ABSTRACT

Principle 16 of the Rio Declaration on Sustainable Development defined Precautionary Principle as the taking of preventive measures without having to wait until the reality and seriousness of the threat become fully known. The study examines the measures adopted by Islamic Banks in Nigeria to create essential mechanisms to achieve sustainable development. The study identifies the relationship between Islamic banking and sustainable development. The study found that the precautionary principle plays an important role in the area of environmental law and Islamic banking in Nigeria. The study recommends the adoption of the precautionary principles in promoting Islamic banking system in Africa.

BY:

HAKEEM IJAIYA, Ph.D

AN EXAMINATION OF TAX TREATMENT OF COOPERATIVE SOCIETIES IN NIGERIA

ABSTRACT

Cooperative is a universal phenomenon and its importance cannot be underscored in any economy and that accounts for the intervention of the International Cooperative Alliance,(ICA) International Labour Organization (ILO) and the Coady International Institute both in formulating acceptable definition of a cooperative and in formulating the principles of cooperative societies globally. The importance and the significant impact cooperatives society have in the economy especially in redistribution of income and alleviating poverty has also made the tax and cooperative laws in Nigeria to exempt cooperative societies from payment of certain taxes on their activities. This paper examined the various cooperative, and tax laws in Nigeria with a view to pointing out the tax treatment of cooperative societies and their activities in Nigeria, what impact has this shown in the development and growth of cooperative societies in Nigeria, and is it justifiable or antiquated?. We concluded by showing that since a cooperative activities in Nigeria is more of welfare schemes, the law should continue to give the tax exemptions to cooperative societies in Nigeria.

BY:

BELLO, S.A, Ph.D

&

OLUFEMI ABIFARIN, Ph.D





MARGIN OF APPRECIATION AND HUMANRIGHT PRINCIPLE

ABSTRACT

Various groups and individuals in Nigeria have continue in agitate for the legalization of abortion in Nigeria especially under the right to choose provision contained in the Convention on the Elimination of all forms of Discrimination against Women(CEDAW). It is expected that, Nigeria being a signatory to CEDAW ought to have implemented the Convention which will then pave the way for the legalization of abortion. The refusal by the Nigerian government to domesticate and consequently, implement CEDAW has given rise to speculations of breach of treaty agreement signed by the Nigerian government. This study investigates the stand of Nigeria as a sovereign nation as far as domestication and implementation of CEDAW is concerned in the face of the constant agitation for the legalization of abortion in Nigeria. This is a doctrinal research wherein , various materials like books, journals, periodicals etc, which are based in the library are used in carrying out this research. The library –based research conducted by this work reveals that, sovereign nations like Nigeria have the right to uphold the fundamental principles of international human rights instruments like CEDAW. Also, it has been revealed that nations could rely on the margin of appreciation when determining which human right to uphold.

BY:

GANIAT MOBOLAJI OLATOKUN Ph.D

THE LAWS ON BIODIVERSITY CONSERVATION AND POVERTY REDUCTION IN KWARA STATE, NIGERIA

ABSTRACT

Biodiversity is essential for human existence and plays a crucial role in sustainable development and poverty reduction. It provides millions of people with variety of life with which survival and existence of mankind is guaranteed. The alarming rate at which biodiversity is being annihilated has exacerbated poverty in our society. Thus government at both national and local levels have evolved legislations to check the incessant abuse on biodiversity which helps to secure food security and source of traditional and modern pharmaceuticals. Thus, this work principally examines the various legislation on biodiversity conservation and its effect on poverty reduction in Kwara State, Nigeria. The following are suggested as ways by which biodiversity can be conserved and consequently reduce poverty in Kwara State; provision of economic, social, political and psychological empowerment to improve the income of the poor, involvement of the local people in the participation, design and formulation of policies and regulations on biodiversity, effective enforcement of the law on biodiversity, recognizing the proprietary interest of individual and above all, institutionalizing good governance and combating corruptions.

BY: IJAIYA BASHIR LEKE

&

ABDULRASAQ FUNSHO FATIMAH





REVISITING THE COMPLEMENTARITY REGIME OF THE INTERNATIONAL CRIMINAL COURT: THE ROLE OF AFRICAN STATES AND CHALLENGES

ABSTRACT

The coming into force of the Rome Statute on 1st July, 2002 is widely acknowledged to be a great achievement in International Criminal Law and thus International Criminal Justice. The statute which established the International Criminal Court (ICC) seeks to ensure that perpetrators of international crimes do not go unpunished. As of July 2012, 121 are states parties to the Statute of the Court of which 33 are from the African continent. The ICC has jurisdiction over persons responsible for international crimes: genocide; war crimes; crimes against humanity and the crime of aggression. A fundamental principle of the ICC is the principle of complementarity under which national judicial systems of state parties will have the first opportunity in respect of any investigation and prosecution of crimes that affects their territories or nationals. This paper examines the roles of African states in the complementarity principle of the ICC. It notes that African states have a fundamental role of domesticating international crimes, cooperation with the ICC and strengthening their investigative and prosecution bodies to compliment the ICC. The paper further examines the practical challenges of the complementarity principle in Africa with a view to some recommendations.

BY: JAMIU OLA ADEDOYIN-RAJI Ph.D

&

LUKMAN ADEBISI ABDULRAUF

APPRAISING THE LEGAL ISSUES IN MARITIME BUSINESS IN NIGERIA

ABSTRACT

This Article examines the business community of the various marine-related laws guiding merchants in the high sea. Towards this, the paper appraises the history, jurisdiction and operation of admiralty division in the maritime jurisdiction. The Nigerian maritime laws are also highlighted vis-à-vis some renowned international treaties and laws, this done because, the laws, treaties, conventions, customs and rules to regulate this growing international maritime traffic and pollution are the focal point of maritime laws and laws of the Sea.

BY:

HASSAN I. ADEBOWALE





CITIZENS' RIGHTS TO BASIC SOCIAL INFRASTRUCTURE IN NIGERIA TODAY: THE IMPERATIVE OF GENUINE ENFORCEMENT

ABSTRACT

This paper examined the citizen's rights to basic infrastructural amenities in Nigeria and found out that these rights are, more often than not, honoured in breach. It was also discovered that these rights are lumped and dumped into the Chapter II of the Constitution which was rendered non-justiceable whereby no court of law would wade into any matter arising there from. The effect is that the continued and flagrant assault to these benefits, often without consequential redress, constitutes an affront to the *raison d'être* of state formation and structural organization of human society generally. Although the jurisprudence of the non-justiceable clause of the Constitution is hinged on the problem of insufficient financial resources in Nigeria as in most developing nations, yet this paper argues that the principle of indivisibility and interrelatedness of human rights closes the gap and erases the caesura often placed between civil and political rights, on the one hand, and socio-economic and cultural rights, on the other hand. Good management of resources, removal of the constitutional caesura given the hylemomorphic (composite, bodily and formal) nature of human person, and determined moral and political will to do the right thing were seen as some of the measures that would provide the panacea.

BY:

IKENGA K.E. ORAEBUNAM, Ph.D

A CRITICAL EXAMINATION OF THE ATTORNEY-GENERAL'S POWER OF NOLLE PROSEQUI UNDER THE NIGERIAN CONSTITUTION

ABSTRACT

The powers granted to the Attorney-General under sections 174(1)-(3) and 211 (1)-(3) of the Constitution of the Federal Republic of Nigeria have been described as judicial in nature, and they include the power to discontinue, at any stage before judgment is delivered by the court, any criminal proceedings that have been instituted or undertaken by him or any other authority or person. It is presumed that the exercise of that power by the Attorney- General is non-political but essentially judicial, and that he is obliged by convention to exercise an independent discretion free from political considerations. This paper examines how essentially true this is, in practice. Besides, this paper traces the origin of this immense power; its application under the Nigerian law, and furthermore, offering recommendations on how best to prevent the abuse of this vast power conferred on the Attorney-General by the Constitution.

BY:

AYOBAMI JOSHUA





DELOCALISATION OF ARBITRAL PROCEEDINGS AND *LEX ARBITRI*: A SOJOURN INTO THE EQUILIBRIUM

ABSTRACT

This paper examines two important issues in relation to international commercial arbitration. First, whether the notion that international commercial arbitration is conducted entirely outside the framework of national legal systems is correct or too good to be true. In other words, is there anything like floating arbitration (i.e. delocalized or denationalized arbitration). Secondly, whether there is no such thing as a *lex arbitri*. That is, is there anything like the law of the country in which the arbitration is held in the conduct of international commercial arbitration? The paper ends with a concluding remark on the true position of the arguments.

BY:

KUDIRAT MAGAJI W. OWOLABI

LOCAL GOVERNMENT ADMINISTRATION IN NIGERIA:

AN EVALUATION

ABSTRACT

This paper evaluates the Local Government in Nigeria with the intent of examining its Administration. In achieve this, the paper examines the history of Local Government administration in Nigeria from the Colonial period till date, the functions of the Local Government as well as some of its powers including the power to delegate authority, the power to establish committees and the power to make declarations and modifications on customary laws. The paper further examines factors plaguing the effective administration of Local Government including issues of corruption, overbearing control of the State Government as well as poor finance packaging. The paper makes several recommendations including amendment of the Constitution to include clearer provisions pertaining to the power and control of the Local Government in Nigeria

BY:

RILWAN MAHMOUD

&

OLAREWAJU TEMITAYO





NON-INTERNATIONAL ARMED CONFLICTS IN INTERNATIONAL HUMANITARIAN LAW

ABSTRACT

International humanitarian law is activated only when armed conflicts have advanced to a given threshold. Yet, only two divisions of armed conflicts are recognized by international humanitarian law, namely, international and non-international armed conflicts. Invariably, the legal regimes for the two differ. Only Common Article 3 of the Geneva Conventions and Additional Protocol II apply to non-international armed conflicts. This article examines the regulation of non-international armed conflicts by international humanitarian law. It analyzes the classification of armed conflicts, the provisions of Common Article 3, the protection of person under the convention, as well as repression of breaches of humanitarian law during non-international armed conflicts.

BY:

AMADE ROBERTS AMANA

&

SOLOMON A. IENLANWE

JUDICIAL REVIEW OF LEGISLATION IN NIGERIA:

A CONSTITUTIONAL IMPERATIVE

The principle of judicial review has been described as the examination by a country's court of the actions of the legislature, executive and administrative branches of government to ensure that those actions conform to the provisions of the Constitution. Judicial review illustrates the application of separation of powers in modern governmental system. This article stresses that the exercise of the power of judicial review of legislation by the judiciary is a requirement of the Constitution and not an exercise of supremacy over the legislature. The article considers judicial review as a process enshrined in the principle of separation of powers. It also considers powers of the legislature including the constitutionally prescribed mode of law making and the powers of the judiciary. It concludes by emphasizing that judicial review is performed to uphold the supremacy of the Constitution.

BY:

AROWOLO, GRACE AYODELE

&

ANWO, JOEL OLASUNKANMI

