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SZÉCHENYI EGYETEM
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Articles

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The Legal Status of Macro-Prudential Authorities in the EU Member States

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Abstract

The study examines the main components of the organizational framework for macro-prudential management in the Member States of the European Union. The organizational design of macro-prudential management is a competence of the Member States, which can themselves be grouped into different models. First, the study provides an overview of the international and EU standards and recommendations on the legal status of macro-prudential bodies in the Member States. Then, it lists those basic features of the legal status of macro-prudential bodies which are relevant with a view to the present inquiry before finally turning to address those very features. The study concludes that there is a tendency for the EU macro-prudential body to standardize the basic elements of the legal status of the Member State macro-prudential bodies. However, the process of standardization, in terms of the content of the institutional framework, is still at an early stage and a variety of legal solutions may be identified for each of the substantive aspects. As such, we claim that the institutional framework of macro-prudential policy is best described by a coordinated standardization of the substantive pillars with different formal features and with different legal solutions.

Keywords

institutional framework, macro-prudential management, Magyar Nemzeti Bank, financial stability, systemic risks

1 Introduction

Recently, macro-prudential policy has become a key issue for global financial stability. This macro-prudential policy serves to maintain the stability of the financial system as a whole, and to identify and address systemic risks, rather than focusing on the stability of individual financial institutions. That is why any consideration on this management activity ought to be systemic.

The macro-prudential authorities analyze the interconnections between financial institutions and those factors (so-called systemic risks) that are capable of causing instability in the

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financial system in the long run. Macro-prudential authorities use, then, various legal and non-legal instruments to mitigate or eliminate the identified systemic risks. Such tools may include recommendations, warnings or various macro-prudential instruments such as capital requirements, liquidity limits, etc. Another important feature of macro-prudential management is international cooperation and information exchange. Given the global nature of financial markets and institutions, macro-prudential authorities are obliged to cooperate with each other to mitigate cross-border financial risks.

To put it briefly, macro-prudential management describes a set of interventional administrative tools designed to maintain financial stability, which take both the financial system as a whole and the complex interactions within it into account. Hence, macro-prudential measures contribute to financial and economic stability and sustainable growth, and minimize the risk of financial crises or mitigate their impact (in particular their costs) on the economy and society at large.

The aim of this study is twofold. On the one hand, it examines the institutional framework for the development of effective decision-making on macro-prudential management. On the other hand, it analyzes the basic features of the legal status of the bodies that form part of that framework in the Member States of the European Union.[1] In doing so, first, we provide an overview of the international and EU standards and recommendations on the legal status of macro-prudential bodies in the Member States. Then, we list those basic features of the legal status of macro-prudential bodies which are relevant with a view to the present inquiry before finally turning to address those very features. Our study analyzes the institutional features of the Hungarian macro-prudential body separately from the analysis of the other national authorities, yet in line with the prior methodology. We offer a tentative conclusion according to which the institutional framework of macro-prudential policy is best described by a coordinated standardization of the substantive pillars, having distinct formal features, and with different legal solutions.

2 International and EU standards and recommendations on the status of macro-prudential authorities

As a result of the advancement of information technologies, the characteristic activities of financial institutions are being highly globalized, that is, they are typically not bound by any physical jurisdiction when providing financial services (Janovec, 2020, 31). It implies that there is a high degree of international coordination behind the legislation and enforcement of the activities of financial institutions. One shall bear in mind that this characteristic also applies when the definition of the institutional characteristics determining the legal status of the administrative bodies of macro-prudential management, i.e.: the macro-prudential authorities, are at stake, and that their peculiar legal status has a fundamental impact on their organizational structure as well.

[1] The study does not examine the supra-national level of macro-prudential policy institutions, i.e. the EU and international levels of macro-prudential policy-making (these levels include the activities of the so-called international standard-setting bodies, international financial institutions and the EU in relation to macro-prudential policy). This is because the international level momentarily lacks the option of taking legally binding decisions, and so it relies essentially on coordination among states rather than legislative decisions to address systemic risks. Meanwhile, the EU macro-prudential governance system works in close cooperation with the macro-prudential bodies in the Member States, resulting in its own, distinctive characteristics.

The so-called *international standard-setting bodies* and *international financial institutions* have formulated recommendations on the basic organizational characteristics necessary for the effective functioning of macro-prudential management, and these have taken into account the fact that the institutional and organizational framework of macro-prudential management is not fully-fledged even in those countries with the most advanced financial systems (Fáykiss & Szombati, 2013; Mérő, 2017). The organizational features of macro-prudential management need to be adapted to country-specific circumstances (structure and development of the financial market, structure of the financial supervisory system and other specificities); hence, several organizational solutions are possible. That said, the recommendations set out a number of basic organizational features that are necessary for an effective organizational framework for macro-prudential management.

The organizational features of macro-prudential management are based on the expectation that the purpose (maintaining financial stability) and powers of the macro-prudential authority are clearly defined by law, since competing competences among multiple public authorities erode liability and risks-mitigating efficiency (IMF, 2011). Organizational decisions are a matter for national legislators, but central banks have important and prominent role to play in the organizational framework of macro-prudential management (IMF, 2011; Nier et al., 2011; IMF, 2013; IMF-FSB-BIS, 2016). Given their responsibilities for monetary policy, central banks have relevant operational experience in systemic intervention, identification and analysis of systemic risks, as well as communication of decisions. The macro-prudential authority ought to be also independent and autonomous from political and market influence in the performance of its tasks (BIS, 2011). The principal role of central banks in macro-prudential management can provide *de facto* greater independence for the exercise of macro-prudential responsibilities. However, while ensuring independence, it is also necessary to implement appropriate accountability mechanisms (IMF–FSB–BIS, 2016). The macro-prudential management organization should promote the capacity to respond to emerging systemic risks, ensure access to information and have the appropriate macro-prudential tools to achieve its objectives. Macro-prudential authorities ought to have complex powers, ranging from direct intervention tools to soft recommendations and warnings (IMF, 2013).

The effectiveness of European macro-prudential policy partly depends on national macro-prudential policies in the Member States, as the responsibility for adopting measures to maintain financial stability remains primarily at the national level. It is not surprising therefore that at the EU level there is a desire for a standardized legal status, albeit itself being of *soft law nature*, for the organization of macro-prudential management in the Member States. For this reason, in addition to the recommendations of international standard-setting bodies and international financial institutions, the recommendations of the European Systemic Risk Board (hereinafter: ESRB)[2] are of particular importance in the development of the macro-prudential governance of the EU Member States. (ESRB, 2011)

According to ESRB 2011, the authority entrusted with the conduct of macro-prudential policy should be designated by national legislation, generally in the form of a single institution or a council of authorities whose actions have a material impact on financial stability. The

[2] The ESRB is the member of the European System of Financial Supervisors responsible for certain macro-prudential tasks, including making recommendations for corrective action to address identified risks. In the light of this mandate, the ESRB has also formulated recommendations to national authorities on macro-prudential mandates.

decision-making process of the governing body of the macro-prudential authority should also be specified in the national legislation. The design of the macro-prudential organization should ensure that the central bank plays a leading role in macro-prudential policy and that macro-prudential policy does not undermine the central bank's independence in the conduct of monetary policy. The macro-prudential authority should be granted operational independence at least in the pursuit of its objectives, in particular regarding policy bodies and the financial sector. As a minimum, the macro-prudential authority should be entrusted by national legislators with identifying, monitoring and assessing risks to financial stability and the enforcement of policies to achieve its objectives of eliminating and mitigating those risks. In addition, in view of the multi-level and complex macro-prudential governance of the EU, it is important to underline that the ESRB, and the European Central Bank (hereinafter: ECB) as further specified below, should coordinate the activities of national macro-prudential authorities within a single supervisory mechanism, while at the same time ensuring cooperation and exchange of information between national macro-prudential authorities on cross-border issues.

The review of Member States' compliance with ESRB 2011 was carried out in 2014 (ESRB, 2014). The next review was due to take place in 2016, but was not carried out, mainly due to the emergence of a strong demand from Member States to retain discretionary powers over macro-prudential management tools (Stellinga, 2021, 1449–1451). Nevertheless, the ESRB 2011 has had a decisive influence on the establishment of national macro-prudential bodies, partly because its broad discretionary wording.

3 Analytical framework and methodology for the status of macro-prudential authorities

As outlined in the introduction, the study analyzes the basic features of the legal status of macro-prudential authorities, grouped around four components. It analyzes national macro-prudential authorities':

a) organizational structure and composition,
b) macro-prudential tools,
c) accountability and communication; and
d) mechanisms to ensure national and international coordination.

The methodology of the analysis is based on a comparative analysis of national legislation on the macro-prudential body system in the Member States, in order to identify similarities and differences and to compare the regulation of the different legal institutions. For the availability of national legislation, see *Annex 1.*

Before going into details on the basic features of the legal status of national macro-prudential authorities, it is necessary to briefly summarize those foundations of each of these components which are relevant with a view to our inquiry.

The organization and composition of the macro-prudential authority is a key issue for the effectiveness of macro-prudential management and the legal status of macro-prudential authorities. From a theoretical point of view, three basic models emerge in Member State practice, based upon the organizational appearance and composition of the macro-prudential authority. In the first model, several authorities carry out macro-prudential policy tasks which are coordinated by a coordination committee set up by the Member States. In the second model, a single institution, itself having other responsibilities, e.g.: the central bank or the supervisory authority, is entrusted with macro-prudential policy tasks. Finally, in the third model, an independent authority is established specifically to perform macro-prudential tasks (IMF,

2011). Despite their differences, it is relatively safe to conclude that national legislators assign their central banks a prominent role in macro-prudential decision-making, predominantly due to their systemic perspectives, comprehensive knowledge of financial markets and payment systems, decision-making capacity independent of other economic policy branches and their role as lender of last resort (Szombati, 2013).

The dynamic evolution of the financial system requires that macro-prudential authorities have appropriate powers to identify, manage and prevent systemic risks, with the ability to react quickly where necessary. To this end, macro-prudential authorities should have information gathering powers, i.e. they should have access to data collected by micro-prudential supervisors, monetary authorities and other public authorities, and the power to request and collect information directly from market participants (Chiu, 2012). As part of this, the macro-prudential authority should have the power to identify the specific financial institutions to be subject to macro-prudential supervision with respect to the systemic risks they pose. Furthermore, macro-prudential authorities should typically have legislative, and to ensure due process (Váczi, 2022), enforcement powers.

It is essential that the macro-prudential authority be granted functional independence, which is not an autonomy based on constitutional principles, but an autonomy granted individually (Lapsánszky et al., 2017). The reason for this is that administrative autonomy always ensures independence from the executive power or the government at its apex, but such autonomy is not related to the organization itself, but to the specific administrative tasks and powers it performs. In this respect, even if the central bank plays a pivotal role in the organization of macro-prudential management, the guarantees of independence with respect to this function may differ from the constitutional guarantees of independence of monetary policy (de Haan et al., 2012; Duff, 2014). Attention should also be paid to the fact that the objective of macro-prudential policy is to prevent systemic risks, so the effectiveness of such policies is naturally difficult to measure, if they are contrasted with the definition of an inflation target for monetary policy and measuring actual inflation. Transparency, participation in macro-prudential decision-making,publicity and clear communication of macro-prudential decisions can provide a fundamental safeguard for the accountability of the macro-prudential authority. This could take the form of periodic financial stability reports to the public, reports to parliaments or mechanisms to ensure transparency in decision-making (Nier et al., 2011).

Finally, the institutional framework for macro-prudential policy should be examined in the context of national and international coordination mechanisms. The need for coordination at the national level is justified by the fact that macro-prudential authorities usually have other responsibilities in addition to their macro-prudential ones and that generally-speaking the instruments that can be used to address systemic risks do not lie within the competence of a single body. Regarding the need for coordination at international level, the basic premise is that the high degree of globalization of the financial system has made the various institutions in the system highly interconnected. Consequently, international coordination can both ensure that regulatory arbitrage is avoided and allow for a better understanding of the effects of risk-taking and financial cycles (Nier et al., 2011; Heath, 2014).

4 Basic features of the status of national macro-prudential authorities

4.1 Organization and composition of national macro-prudential authorities

As regards the composition of macro-prudential authorities, the EU Member States have several models.[3] Most EU Member States are part of the integrated central bank model. The essence of this model is that macro-prudential management tools are the responsibilities of the central bank. In this model, the coordination between monetary policy and micro-prudential management takes place within a single body. The central bank model with a consultative committee is a special type of integrated central bank model. The central bank exercises the macro-prudential authority and intervention tools, but a consultative committee is set up to analyze the financial intermediary system, collect information, issue recommendations and warnings. The members of these consultative committees are typically the central bank, the other regulators and the government (minister). At the same time, some EU Member States established independent systemic risk or stability councils, which are responsible for gathering and analyzing information, issuing recommendations and warnings and applying macro-prudential tools. The stability councils are composed of representatives of the central bank, regulatory agencies and other relevant authorities and government bodies. Typically, the central bank's governor is also the chairman of the council. Also, the central bank provides the organizational framework for its functioning. A common feature of all Member States falling into the above models or sub-models is the decisive influence and weight characterizing the central bank in macro-prudential management.

The Nordic countries follow a different path. They maintain a single model of supervisory authority, separate from the central bank and thus from monetary policy, where micro- and macro-prudential policy decisions are concentrated in this authority. In some Member States, the supervisory model is complemented by the establishment of a stability board to ensure coordination. These councils are typically chaired by a minister and involve the central bank, government and the supervisory authority or authorities. In this model, the council is normally responsible for information gathering, analysis, recommendations and warnings, but the application of macro-prudential authority and intervention tools is the responsibility of a supervisory authority separate from the central bank. Also in this model, the central bank may be assigned the tasks of gathering information, analysis, and issuing recommendations and warnings.

Finally, it is worth noting that there is also a national solution where macro-prudential powers are not vested in an authority independent of the government, but are the responsibility of a minister. In this case, too, a coordination body is set up, involving the government, the central bank, the supervisory authorities and external experts, to collect and analyze information and to formulate recommendations and warnings.

[3] See *Table 1.*

Table 1. National models of macro-prudential authorities

<table>
<tr><td rowspan="5">System of national macro-prudential authorities</td><td rowspan="3">Integrated model</td><td colspan="2">Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Portugal, Slovakia</td></tr>
<tr><td>Integrated model with an advisory committee</td><td>Croatia, Netherlands</td></tr>
<tr><td>Integrated model with independent systemic risk board</td><td>France, Poland, Romania, Slovenia,</td></tr>
<tr><td rowspan="2">Separate supervisory authority model</td><td colspan="2">Finland, Sweden</td></tr>
<tr><td>A separate monitoring model with a consultative committee</td><td>Austria, Germany, Luxembourg, Spain</td></tr>
<tr><td>Ministerial model</td><td colspan="2">Denmark</td></tr>
</table>

Source: Authors' own editing

4.2 Tools of the Member States' macro-prudential authorities

The basis for making macro-prudential governance work is that Member States provide their macro-prudential authorities with the macro-prudential tools necessary for achieving macro-prudential objectives effectively and efficiently, in order to prevent and mitigate systemic risks to the financial system as a whole.

In general, national macro-prudential authorities in the Member States have the basic power to collect information, i.e. they have access to data collected by micro-prudential supervisors, monetary authorities and other public authorities. Furthermore, they have the power to request and collect information directly from market participants (Keller, 2013; Serena & Tissot, 2017).

When systemic risks to the stability of the financial intermediary system are identified, macro-prudential authorities may issue warnings and recommendations that do not constitute an effective intervention (Mérő, 2012). National legislation typically regulates the process for issuing warnings and recommendations, and it may also specify the financial or non-financial institutions to which warnings and recommendations could be addressed. Legislation often also regulates whether compliance with macro-prudential recommendations is mandatory or voluntary. If the recommendation is mandatory, the legislation typically provides for some enforcement mechanism. Mostly, there is an obligation for the addressee to inform the macro-prudential authority on how to comply with the recommendation.

In addition to warnings and recommendations, the macro-prudential management inventory includes a range of interventional tools. It is necessary to identify intermediate macro-prudential objectives to select the appropriate instruments. The identification of intermediate objectives based on specific market failures allows a clearer classification of macro-prudential instruments provides the economic basis for the precise content and application of the instruments and facilitates the accountability of macro-prudential authorities (Brunnermeier et al., 2009; ESRB, 2013; Noyer, 2014).

The ESRB 2013identifies five such intermediate objectives: *a)* to mitigate and prevent excessive credit growth and leverage; *b)* to mitigate and prevent excessive mismatches in

maturity structures and market liquidity shortages; *c)* to limit the concentration of indirect and direct exposures; *d)* to limit the systemic impact of misaligned incentives to reduce moral hazard; and *e)* to strengthen the resilience of financial infrastructure. The effective functioning of macro-prudential policy requires, in practice, that complementary tools are available for the macro-prudential authority, reducing thereby the phenomenon of regulatory arbitrage and the uncertainties associated with the transmission mechanism. The ESRB 2013 describes informatively the tools it considers best suited to achieve the intermediate objectives.

Macro-prudential tools typically refer to the legislative activities of macro-prudential authorities with regard to systemic intervention, and partly to the use of regulatory tools. With the entry into force of CRD IV./CRR[4], national macro-prudential authorities have the basic macro-prudential tools necessary to achieve intermediate objectives, in part directly under the CRR and in part through the implementation of CRD IV. In addition, Member States have the right to introduce additional macro-prudential tools, such as loan-to-value (LTV) and loan-to-income (LTI) ratios, and to extend their toolbox with other instruments, including fiscal policy instruments, in order to preserve the flexibility to respond to stability risks.

4.3 Accountability and communication mechanisms for national macro-prudential authorities

Mechanisms to ensure transparency,publicity and clear communication of macro-prudential decisions should be seen as a framework for the operational independence of national macro-prudential authorities (Fazekas, 2022). These mechanisms are fundamentally designed to ensure the accountability of the macro-prudential authority.

In national practice, macro-prudential authorities typically operate under the authority of national parliaments, as it is the parliamentary public which guarantees democratic control over these bodies or institutions. A typical form of this control is for macro-prudential authorities to report annually, or in some cases more frequently, to the parliaments and to the concerned parliamentary committees. Accountability is clear in Member States where macro-prudential responsibility is not shared between different bodies, and there is a more limited accountability in the case of complex macro-prudential systems. The powers of specialized national parliamentary control bodies are closely linked to parliamentary control. In several Member States, the ombudsmen can examine whether the macro-prudential authorities have infringed fundamental rights in their procedures. Furthermore, national audit offices can also audit the management of macro-prudential authorities.

Decisions and actions taken by macro-prudential authorities may be subject to judicial review. This means that their actions can be challenged in court to ensure that they comply with the legislation in force. However, a significant limitation of this principle is that most macro-prudential measures are not individual decisions of public authorities but take the form of legislation, for which judicial review is generally limited, or at least difficult to obtain for Member States.

[4] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC and Regulation (EU) No 575/2013/EU of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

As a basic principle, macro-prudential authorities should communicate their macro-prudential decisions openly, unless this would pose a risk to financial stability, to regulated entities, the market, politicians, the general public and other authorities. Clear communication of macro-prudential objectives can improve the transmission mechanism of macro-prudential instruments, both when the macro-prudential authority has taken action and when it has failed to do so (Giese et al., 2013). It can signal that the authority is capable of addressing market problems, thereby strengthening its legitimacy and at the same time its accountability.

The most important element in the communication of macro-prudential decisions, as practiced in Member States, is the issuance of financial stability reports. Reports are typically comprehensive documents that review and analyze different aspects of financial stability. They usually start with an overall assessment of financial stability in a given country, often including a discussion of the international context (Born et al., 2011). Stability reports are complemented by press releases, policy statements, background notes and FAQ.

4.4 National and international coordination mechanisms of national macro-prudential authorities

Close cooperation between the bodies with macro-prudential responsibilities is needed to identify and address systemic risks (Neményi, 2012). This is most outspoken when other authorities are responsible for micro- and macro-prudential management. Indeed, the flow of information between the two administrative areas strengthens the ability to identify risks and to take appropriate public policy decisions. The benefits of cooperation can be best exploited when macro-prudential aspects are integrated into the *Supervisory Review and Evaluation Process* (SREP). However, mechanisms for cooperation need to be developed more widely, as many other areas of economic policy (monetary policy, fiscal policy, competition policy etc.) can contribute to the objectives of macro-prudential management. In many EU Member States, committees or councils have therefore been set up as macro-prudential authorities, including at least the micro-prudential authority, the central bank and the finance ministry (see France, Germany).

Where such committees are not set up, Member States typically opt for a cooperation agreement between their supervisory authority and their national bank, setting out the framework for cooperation and the exchange of information.[5] In addition to the conclusion of cooperation agreements, a usual solution is for the legislation to oblige the macro-prudential authority to consult prior to macro-prudential decisions (e.g.: in Finland).

The cross-border implications of macro-prudential decisions and their collective nature[6] (Viñals & Nier, 2014) also require coordination of national macro-prudential management at the EU level. To this end, the distinct national macro-prudential authorities may cooperate

[5] See *Memorandum of Understanding between the Central Bank of Malta and the Malta Financial Services Authority on the setting up of a Joint Financial Stability Board*. Online: https://bit.ly/3U2guIU; *Memorandum of Understanding between Finansinspektionen and the Riksbank concerning a council for cooperation on macro-prudential policy*. Online: https://bit.ly/3vkXw8j

[6] The collective nature of macro-prudential decisions means that macro-prudential decisions are essentially taken at the Member State level, but are aimed at influencing activity that is not subject to Member State physical jurisdictions, and therefore their effectiveness is limited. A globalized financial market requires coordinated national decisions.

ex ante with their respective counterparts in the framework of the so-called colleges of supervisors[7] in cases where macro-prudential decisions may have cross-border implications. Before using macro-prudential instruments covered by CRD IV/CRR, national authorities are required to inform the ESRB, stating the reasons for the use of the instrument. The ESRB may issue opinions or recommendations on the use of national macro-prudential instruments. International coordination is also ensured through the participation of Member States in the ESRB, the European Supervisory Authorities and, in the context of Single Supervisory Mechanism (hereinafter: SSM), the Board of Supervisors, as well as in the institutions at the international level.

5 The Hungarian macro-prudential authority

The analysis of the Hungarian macro-prudential authority is conducted in the article to highlight the institutional specifics and practices of macro-prudential governance in Hungary. This examination helps evaluate how Hungary fits into the European context of macro-prudential policy and practice.

The development of the Hungarian macro-prudential institutional framework, with the single exception of the *Financial Stability Committee* (Pénzügyi Stabilitási Bizottság, hereinafter: FSC) which came into life in 2004, is linked to the global financial crisis. The FSC was a consultative forum[8] established by the Ministry of Finance, the State Financial Supervisory Authority (hereinafter: FSA) and the Hungarian National Bank (hereinafter: MNB), which had no decision-making powers and whose cooperation was essentially aimed at a coordinated solution to a possible financial crisis. The transparency of the FSC was questionable as no public records of its activities have been preserved.

On 1 January 2010, the Parliament established the *Financial Stability Board* (Pénzügyi Stabilitási Tanács, hereinafter: FSB I) to replace the FSC,[9] which also comprised the Ministry of National Economy (hereinafter: MNE), the FSA and the MNB. However, given its significant powers, the FSB I essentially gave the MNE and the MNB the possibility to influence the macro-prudential aspects of individual institutional supervision. Indeed, the prior consent of the FSB I was required for the issuance of non-binding recommendations by the President of the FSB I, setting out the basis for the application of the FSB I's legislation, or for the semi-annual definition of the priority areas of the FSB I's supervisory activities. What is more, the FSB I had to discuss the decision of the FSA to prohibit or restrict activities or services that threatened financial stability, and the FSB I could also initiate legislation.[10] However, as of 1 January 2011

[7] This is also true for the ECB in the context of the Single Supervisory Mechanism, as it is the home country for Member States covered by the SSM and the host country for a Member State not covered by the SSM or a non-EU country, as the case may be.

[8] See the *Tripartite Agreement on the coordination of tasks to promote the stability of the financial system between the State Financial Supervisory Authority, the Magyar Nemzeti Bank and the Ministry of Finance*. Online: https://bit.ly/4aZBgjr

[9] See Act CXLVIII of 2009 on certain legislative amendments necessary to make the supervision of the financial intermediary system more effective.

[10] In its opinion, the European Central Bank welcomed and welcomed this development. It said: "Although the draft law provides that the FSC will 'assist' the FSA, which seems to indicate that the FSC will have a subordinate

the powers of the FSB I were again redefined by the Parliament and, by removing the powers of the FSC, it was transformed into a mere consultative body (hereinafter: FSB II), while reducing the influence of the MNB and the MNE.[11] This institutional "amortization" might be considered as a serious step backwards from the perspective of macro-prudential supervision, as FSB II in that form had become inadequate for macro-prudential authority tasks.

From 2012 the powers of the FSB II started to be reduced which coincided with the new MNB Act's[12] entry into force with which considerable emphasis was begun to be laid on macro-prudential policy as a peculiar tasks of the central bank. The culmination of this process is the integration of micro-prudential supervisory powers within the MNB's organization, as a result of which, from 1 October 2013 onwards, the MNB's responsibilities in Hungary have included not only monetary policy but also micro- and macro-prudential management. As such, the FSB (hereinafter: FSB III) was re-established within the MNB in a new form and with new responsibilities.

Within the strategic framework defined by the Monetary Council of the MNB, the Hungarian macro-prudential authority's regulatory powers related to the formulation and implementation of macro-prudential policy are exercised partly by the FSB III and partly by the Governor of the MNB personally. Under the MNB Act, the FSB III is a body of at least three, but no more than ten members, consisting of: *a)* the Governor of the MNB as Chairman; *b)* the Deputy Governors supervising the tasks defined in the MNB Act; and *c)* the managers appointed by the Governor of the MNB. Currently, the FSB III is composed of the Governor, three Deputy Governors and six other heads of the relevant areas (e.g. the Executive Director responsible for digitalization). The domestic practice is therefore adjust to those countries where the responsibility for macro-prudential policy implementation has been assigned to central banks.

The operational independence of the MNB and of the FSB III within, is ensured by organizational, professional and financial safeguards. For one, the MNB and the FSB III are themselves both established by law, their statuses and objectives are defined by law, and their macro-prudential powers can only be granted by law. The MNB makes its macro-prudential policy decisions independently, meaning that it is free from political interference, allowing it to focus on long-term economic stability. Secondly, the senior officials of the MNB (Governor, Deputy Governors) are appointed by the President of the Republic, for a term of office diverging from that of the government. Finally, the MNB has its own financial resources, which can be turned for its own operating cost

The MNB has at its disposal the macro-prudential tools necessary to meet certain intermediate objectives, partly under the CRR and partly through the devices provided for in the MNB Act. These implement CRD IV and sectoral legislation in order to safeguard the stability of the financial system at large. The MNB is rather active in the use of macro-prudential tools. The

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role in contributing to the fulfilment of the tasks of the FSA, the ECB trusts that the FSC will be a separate body to which the FSA will provide administrative and logistical support. The assignment to the MNB of specific tasks in the context of the establishment of the FSC is welcome, as it enhances the MNB's contribution to financial stability." (ECB, 2010a, 4).

[11] The ECB has also expressed its dissatisfaction in a new opinion. In its view, limiting its powers will significantly weaken the impact of the PST II legislative proposals. In addition, it is concerned about the reduction of the supervisory powers of the Financial Stability Board without conferring these powers on another competent body or institution (ECB, 2010b, 6–7).

[12] See Act CXXXIX of 2013 on the National Bank of Hungary (hereinafter: MNB Act).

domestic macro-prudential inventory also includes instruments developed to address systemic risks which are not regulated by the EU, e.g.: the foreign exchange funding matching indicator (DMM) or the macro-prudential standard for managing risks stemming from the denomination mismatch of assets and liabilities, or the foreign exchange matching indicator (DEM).[13] Macro-prudential intervention tools are prescribed in a decree issued by the Governor of the MNB, in a custom decision or in a so-called decision with general scope of application.[14]

Regarding its accountability, FSB III regularly reports on its decisions to the Monetary Council, while the Governor of the MNB is audited by the Parliament. The latter is obliged to prepare semi-annual and annual reports, in addition to its extraordinary reporting and informing obligations. Also, the Commissioner for Fundamental Rights may investigate any fundamental rights violations in the operation of the macro-prudential authority, while the State Audit Office may audit its management. Finally, legal control over authority-type macro-prudential measures is ensured by the possibility of judicial review.

The objectives of macro-prudential management in Hungary are laid down in the *Statute of the MNB*, which states that the objective of its macro-prudential policy is to increase the shock-resilience of the financial intermediary system and to reduce the pro-cyclicality of the banking system. The MNB informs stakeholders and the public about systemic risks in its regular publications (Financial Stability Report, MNB Studies). The purpose of this information is to ensure that stakeholders are aware of the reasons for and objectives of macro-prudential decisions and thus to guide their decisions. However, it is important to note, that this information is not automatic, as there may be situations where providing details before intervention would only increase the risks. In such cases, the central bank will make the background analysis public after the risks have been eliminated.

The MNB cooperates with both domestic and international organizations in order to better achieve the objective of creating and maintaining stability in the financial system through the implementation of macro-prudential policy. The MNB cooperates most closely with the relevant ministries in the area of legislation, as the MNB can initiate legislation if it does not have the legislative authority itself in a particular area. In addition to the public authorities and public bodies, the MNB maintains close relations with domestic financial institutions and their organizations, as well as with the organizations operating the financial infrastructure. The Deputy Governor in charge of the financial stability area and experts represent the MNB in various formal committees and working groups of the ECB. The MNB also participates in the work of the ESRB and in the financial stability committees of certain international organizations (OECD, IMF etc.).

6 Conclusions

In general macro-prudential supervisory activities consist of and are mainly aimed at promoting the stability of the financial market itself and it is for this reason that the structure of the institutional framework is so important (Janovec, 2023, 145).

[13] See MNB Regulation 25/2015 (30 July 2015) on the regulation of general denomination consistency between the assets and liabilities of credit institutions.

[14] On the problem of decisions of general application. See: Kálmán (2022).

This study has examined the main components of the institutional framework for macro-prudential policy at the level of the EU Member States. The phase of designation and establishment of authorities for macro-prudential management has been completed and all Member States now have an explicit macro-prudential authority. In the absence of an EU competence, the formal design of the organizational structure of macro-prudential authorities is a matter for the Member States, which, as the study has shown in details, can themselves be grouped according to divergent models. The prominent role of central banks is typically reflected in Member State's organizational arrangements, but there are also examples of models based on a limited, non-determining role for central banks.

However, the effective performance of macro-prudential policy and of public functions and tasks in general cannot be judged by examining the formal aspects of the policy, but by the institutional (legal) substance of the organizational framework. In this respect, an analysis of the legislation of the Member States on macro-prudential bodies shows that there has been a gradual and consciously coordinated consolidation of content in the EU, the primary driving force of which has been the ESRB, even in the absence of legally binding instruments. The process of standardizing the content of the institutional framework has been characterized by a range of legal solutions, particularly in terms of the organizational form of the macro-prudential management bodies, since the Member States' competence for organizing the administrative structure and the way that the characteristics of macro-prudential management differ from those of monetary policy.

In summary, the institutional framework of macro-prudential management can be described by different formal features, initially with coordinated, standardized substantive pillars, yet with distinct legal solutions.

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Annex 1.

Member State	Relevant legislation	Contact details of the relevant legislation	Bodies of macro-prudential management	Distribution of powers between macro-prudential bodies
Austria	Finanzmarktaufsicht behörden-Gesetz (*Federal Act on the establishing and organization of the Financial Market Authority*); Bankwesengesetz (Austrian Banking Act)	https://www.fma.gv.at/en/national/supervisory-laws/	Finanzmarktstabilitätsgremium (*Financial Market Stability Board*) Finanzmarktaufsichtsbehörde (*Financial Market Authority*) Oesterreichische Nationalbank (*Austrian National Bank*)	*Financial Market Stability Board*: recommendation, warning; *Financial Market Authority:* macro-prudential tools; *Austrian National Bank*: monitoring of systemic risks, recommendation, warning, proposals to FMSB
Belgium	Wet van 22 februari 1998 tot vaststelling van het organiek statuut van de Nationale Bank van België (*Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium*)	https://www.nbb.be/doc/ts/enterprise/juridisch/e/organic_act.pdf	Nationale Bank van België (*National Bank of Belgium*)	–
Bulgaria	Закон за кредитните институции (*Law on Credit Institutions*)	https://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/laws_creditinstitutions_en.pdf	Българската народна банка (*Central Bank of the Republic of Bulgaria*)	–
Croatia	Zakon o kreditnim institucijama (*Credit Institutions Act*) Zakona o Vijeću za financijsku stabilnost (*Act on the Financial Stability Council*)	https://www.hnb.hr/documents/20182/506024/e-zakon-o-kreditnim-institucijama_npt.pdf/2ddb8f5f-eec8-b8b4-090f-d92304af0116	Hrvatska narodna banka (*Croatian National Bank*) Vijeće za financijsku stabilnost (*Financial Stability Council*)	*Croatian National Bank*: macro-prudential tools; *Financial Stability Council*: monitoring of systemic risks, recommendation, warning
Cyprus	Οι περί της Κεντρικής Τράπεζας της Κύπρου Νόμοι του 2002 έως (Αρ. 3) (*Central Bank of Cyprus Laws of 2002*)	https://www.centralbank.cy/images/media/pdf/The-Central-Bank-of-Cyprus-Law-2002-English-translation-and-consolidation%20.pdf	Κεντρικής Τράπεζας της Κύπρου (*Central Bank of Cyprus*)	–
Czech Republic	e zákonem č. 6/1993 Sb. (Act No. 6/1993 Coll., on the Czech National Bank, as amended)	https://www.cnb.cz/miranda2/export/sites/www.cnb.cz/en/legislation/acts/download/act_on_cnb.pdf	Česká národní banka *(Czech National Bank)*	–

Denmark	ændring af lov om finansiel virksomhed (Financial Business Act)	https://www.dfsa.dk/-/media/Lovgivning/Oversat-lovgivning/Acts/Financial-Business-Act.pdf	Det Systemiske Risikoråd (*Systemic Risk Council*) Erhvervsministeren (*Minister for Industry, Business and Financial Affairs)*	*Systemic Risk Council*: monitoring of systemic risks, recommendation, warning; *Minister*: macro-prudential tools
Estonia	Eesti Panga seaduse (*Bank of Estonia Act*)	https://www.riigiteataja.ee/en/eli/513042015009/consolide	Eesti Pank (*Bank of Estonia*)	–
Finland	Laki Finanssivalvonnasta (*Act on the Financial Supervisory Authority*)	https://www.finanssivalvonta.fi/globalassets/en/regulation/legislation/fival-eng_muutokseen-445_2023-asti.final.pdf	Finanssivalvonnan (*Financial Supervisory Authority*)	–
France	Code monétaire et financier (*Monetary and Financial Code*)	https://www.legifrance.gouv.fr/affichCode.do;jsessionid=BD7FBB-D7D976F59C7B12583237F94FE7.tpdila12v_3?cidTexte=LEGITEX-T000006072026&dateTexte=20150528 (France version only)	Haut Conseil de stabilité financière (*High Council for Financial Stability*)	–
Germany	Gesetz zur Überwachung der Finanzstabilität (*Financial Stability Act*)	http://www.gesetze-im-internet.de/finstabg/BJNR236910012.html (German version only)	Deutsche Bundesbank (*Bank of Germany*); Ausschuss für Finanzstabilität (*German Financial Stability Committee*); Bundesanstalt für Finanzdienstleistung saufsicht (*Financial Supervisory Authority*)	*Bank of Germany:* analysis, recommendation; *German Financial Stability Committee:* recommendation, warning; *Financial Supervisory Authority:* macro-prudential tools
Greece	Καταστατικό της Τράπεζας της Ελλάδος (*Statute of the Bank of Greece*)	https://www.bankofgreece.gr/RelatedDocuments/BoG_Statute_Tenth_Edition.pdf	Τράπεζα της Ελλάδος (*Bank of Greece*)	–
Hungary	a Magyar Nemzeti Bankról szóló 2013. évi CXXXIX. törvény (*Act on Hungarian Central Bank*)	https://www.mnb.hu/letoltes/mnb-torveny-2016-01-01-en.pdf	Magyar Nemzeti Bank (*Hungarian Central Bank*)	–
Ireland	Central Bank Reform Act 2010	http://www.irishstatutebook.ie/eli/2010/act/23/enacted/en/print.html	Central Bank of Ireland	–

Italy	Testo Unico Bancario (*Consolidated Law on Banking*)	https://www.bancaditalia.it/compiti/vigilanza/intermediari/Testo-Unico-Bancario.pdf	Banka d'Italia (*Bank of Italy*)	–
Latvia	Likums Par Latvijas Banku (*Law on the Bank of Latvia*)	https://likumi.lv/ta/en/en/id/326575	Latvijas Banka (*Bank of Latvia*)	–
Lithuania	Lietuvos Respublikos Lietuvos banko įstatymas (*the Republic of Lithuania Law on the Bank of Lithuania*)	https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/deec9240f0dc11ecbfe9c72e552dd5bd?jfwid=-ddwmerwu3	Lietuvos bankas (*Bank of Lithuania*)	–
Luxembourg	Loi du 1er avril 2015 portant création d'un comité du risque systémique et modifiant la loi modifiée du 23 décembre 1998 relative au statut monétaire et à la Banque centrale du Luxembourg (*The Law of 1 April 2015 establishing the Systemic Risk Board and amending the Law of 23 December 1998 concerning the monetary status and the Luxembourg Central Bank*); Loi du 5 avril 1993 relative au secteur financier telle (Law of 5 April 1993 on the financial sector)	https://www.cssf.lu/wp-content/uploads/L_010415_SRC.pdf; https://www.cssf.lu/wp-content/uploads/L_050493_lfs.pdf	Comité du risque systémique (*Systemic Risk Committee*), and Banque Centrale du Luxembourg (*Bank of Luxembourg*), Commission de Surveillance du Secteur Financier (*Financial Supervisory Authority*)	*Systemic Risk Committee*: analysis, recommendation, warning; *Bank of Luxembourg:* analysis, monitoring; *Financial Supervisory Authority*: macro-prudential tools
Malta	Att dwar ilBank Ċentrali ta' Malta (*Central Bank of Malta Act*)	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8713&l=1	ilBank Ċentrali ta' Malta (*Central Bank of Malta*)	–

Poland	w życie ustawa o nadzorze makroostrożnościowym nad systemem finansowym i zarządzaniu kryzysowym w systemie finansowym (*Act on macroprudential supervision over the financial system and crisis management*)	https://nbp.pl/wp-content/uploads/2022/10/eng_act_on_macroprudential_supervision.pdf	Komitet Stabilności Finansowej (*Financial Stability Committee*) (Minister of Finance)	*Financial Stability Committee*: analysis, monitoring, recommendation, warning, macro-prudential tools; *Minister*: special macro-prudential tools
Portugal	Lei Orgânica do Banco de Portugal (*Organic Law of Banco de Portugal*)	https://www.bportugal.pt/sites/default/files/anexos/legislacoes/statute_banco_de_portugal.pdf	Banco de Portugal (*Bank of Portugal*)	–
Romania	Legea nr. 12/2017 privind supravegherea macroprudenţială a sistemului financiar naţional (*Law No. 12/2017 on the macroprudential oversight of the national financial system*)	https://www.cnsmro.ro/en/despre/cadru-juridic/legea-122017/	Comitetul Naţional pentru Stabilitate Financiară (*National Committee for Financial Stability*)	–
Slovakia	Zákon č. 483/2001 Z. z. o bankách a o zmene a doplnení niektorých zákonov v znení neskorších predpisov (*Act No 483/2001 on banks*)	https://nbs.sk/en/legislation/laws-within-the-nbs-competence/	Národná banka Slovenska (*Bank of Slovakia*)	–
Slovenia	Zakon o bančništvu (Banking Act); Zakon o makrobonitetnem nadzoru finančnega sistema (*Macro-prudential Supervision of the Financial System Act*)	https://www.bsi.si/financna-stabilnost/predpisi/seznam-predpisov/zakoni-direktive-in-uredbe	Odbor za finančno stabilnost (*Financial Stability Board*); Banka Slovenije (Bank of Slovenia)	*Financial Stability Board*: macro-prudential tools; Bank of Slovenia: analysis, monitoring, collecting information

Spain	Royal Decree 102/2019 of 1 March 2019 creating the Spanish macroprudential authority (AMCESFI), establishing its legal regime and implementing certain aspects relating to macroprudential tools.	http://www.bde.es/bde/en/areas/estabilidad/La_inestabilidad/	Autoridad Macroprudencial Consejo de Estabilidad Financiera (Macroprudential Authority Financial Stability Council); Banco de España (Bank of Spain); Dirección General de Seguros y Fondos de Pensiones (Director General of Insurance and Pension Funds); Comisión Nacional del Mercado de Valores (National Securities Market Commission)	*Macroprudential Authority Financial Stability Council:* analysis, recommendation, warning; *Bank of Spain and the supervisory authorities:* macro-prudential tools
Sweden	Lag (1991:936) med anledning av Finansinspektionens inrättande (*Act on Financial Supervisory Agency*)	http://rkrattsbaser.gov.se/sfsr?bet=1991:936 (Swedish version only)	Finansinspektionen (*Financial Supervisory Authority*)	–
the Netherlands	Bankwet 1998 (Act on Banking)	https://www.dnb.nl/media/qv0fkfyw/bankwet-1998-versie-1-juli-2023-engels.pdf	Financieel Stabiliteitscomité (*Financial Stability Committee*); De Nederlandsche Bank (Bank of the Netherlands)	*Financial Stability Committee*: analysis, recommendation, warning; B*ank of Netherland*: macro-prudential tools

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Culture and Identity: Two Emerging Topics in Hungarian Constitutional Law

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Abstract

The paper discusses the concepts of culture and identity within the context of the Fundamental Law of Hungary. The first part focuses on the relationship between the state and culture, both from a conceptual and an ideological point of view. The second part examines how references to culture and identity appear in the Fundamental Law. It is argued that by juxtaposing the two terms in Article R, the Fundamental Law seeks to broaden the meaning of constitutional identity, to include a historical-cultural dimension, and make it a rhetorical topic useful for the construction of exclusivist arguments.

Keywords
culture, identity, political ideologies, constitutional interpretation, Fundamental Law of Hungary, topics

1 Introduction

Since the Seventh Amendment of the Fundamental Law of Hungary (2018), Article R(4) provides that "The protection of the constitutional identity and Christian culture of Hungary shall be an obligation of every organ of the State". The Twelfth Amendment (2023) added a second sentence, according to which "In order to protect constitutional identity, an independent organ established by a cardinal Act shall operate."[1] In what follows, I shall briefly consider (1) the possible links between state and culture, then (2) the possible constitutional role of the concepts of culture and identity. I am going to argue that by juxtaposing the two terms here and in the preamble, the Fundamental Law seeks to broaden the meaning of constitutional identity, to include a historical-cultural dimension, and make it a rhetorical topic useful for the construction of exclusivist arguments.

[1] For the English translation of the Fundamental Law of Hungary (as in force on 1 April 2024) see https://njt.hu/jogszabaly/en/2011-4301-02-00.

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2 State and culture

Already the 1949 text of the Constitution of the People's Republic of Hungary (Act XX of 1949)[2] contained several references to culture, mostly in terms of workers' cultural development [Art. 5, 56(1) and (2)], but also granting the right to ethnic minorities to foster their national cultures [Art. 49(3)]. After the 1990 revisions marking the democratic transition, the Constitution referred to state responsibilities in the "development of science and culture" [Art. 35(1)(f)] and the "dissemination and general access to culture" [Art. 70F(2)], granting equal cultural rights to men and women in terms of culture, among others [Art. 66(1)], while preserving the provision on minority rights [Art. 68(2)]. Before turning to the new approach of the Fundamental Law of Hungary, however, in this part I first sketch the conceptual links between state and culture, then some of the most important ideological positions on this connection.

2.1 Conceptual links

As for the relationship between state and culture, it seems obvious that it is possible for culture to exist without a state, but the state cannot exist without culture. If we regard culture as a set of meanings (albeit not immutable ones) belonging to a given human community,[3] it is easy to see that the state is nothing more than an element of culture, ultimately a cultural product itself.

This insight may be well illustrated by the observations of Hans Kelsen, a modern classic of state theory, who describes in a more or less explicit way the attribution of meaning characteristic of the state (and of law in general) in his explanation of the concept of "normative imputation" (see Kelsen, 1926, pt. I). According to Kelsen, we can speak of imputation when we attribute an action or event to the operation of a larger whole rather than to its physical subject. In the context of normative imputation we can say, interpreting Kelsen, that understanding social action and, within its framework, legal acts requires that we regard the physical manifestations that bring them about as signs we can interpret on the basis of a pre-existing code (see Jackson, 1985, 225–262; Jackson, 1996, 100–124). Just as the chalk lines drawn on the ground are hopscotch marks only for those who know the rules of the game, so the identification of the conclusion of a contract presupposes the prior existence and knowledge of relevant criteria.

The very notion of normative imputation in Kelsen merely suggests that the attribution of meaning is not "natural", i.e., not based on perception alone. Beyond that, however, one may add that the state differs from other elements of culture, such as the game of hopscotch just mentioned, in that it seeks to control the process of meaning making (see Bor & Könczöl, 2019, 263–264, with reference to Jackson, 1985), insofar as it creates and enforces its rules. However, it is striking that such control can never be complete. In the rules of substantive law, we are constantly confronted with concepts whose meaning is not fixed by the state,[4] and even more concepts whose meaning is fixed not by the state.[5]

The state is therefore culturally determined by its very existence: it presupposes that members of a community attribute certain human actions to the state. In a peculiar way, these acts include

[2] For the English translation of the 1949 text, see Foreign Office (1958, 658–671), for the text as amended by Act XXXI of 1989, see Sólyom & Brunner (2000, 379–406).

[3] For a now classic example of this approach, see Geertz (1973).

[4] See Herbert Hart's theory of the 'open texture of law' (Hart, 1994, 128–136).

[5] See e.g. Schanda (2008, 67–68), concerning the concept of marriage.

the creation and enforcement of rules that prescribe which acts are to be imputed to the state. The circularity that Kelsen identifies is not an insurmountable problem if seen within a cultural framework: if it is believed that a given community has certain cultural contents (meanings) that allow it to make this kind of normative imputation. The state is therefore dependent on other elements of culture.

All these conceptual connections can be seen from an external point of view: that of the community that fosters the culture. From the point of view of the state, the relationship with culture can be grasped in an (at least partly) different way. For the state, its own existence is a fundamental given, and thus, as it is situated in the Kelsenian cycle just described, it does not and cannot recognise the role of other factors in the creation of itself. It cannot even consider the foundation of the state as anything other than an act of the state (see e.g. Stein, 1925, 28–32). Culture, as all other factors, is visible from this perspective only insofar as it is represented by the state for itself through its own acts.

Related to this latter idea is the conception of Carl Schmitt, which focuses on the "political" as the basis of the "state" (see Schmitt, 1963, 24–26), attributing to the decision of the political community a key role in the existence of the community itself (as a political community). It does not follow from the Schmittian approach that he would deny the possibility of culture without a state (a non-political community may well have its own culture), but it does follow that from the point of view of the political, culture cannot be considered neutral and therefore inaccessible to political decisions. In the democratic – in Schmitt's terms, the total – state of the 20th century, all decisions are in the hands of the political community. Therefore, along with religious, economic, and other issues, cultural decisions cannot be depoliticised and become independent of the state.

These two ways of approaching the relationship between state and culture are relevant, beyond a conceptual clarification, for the following considerations because a constitutional-law explanation should ideally give an account of both the reality of the state constructed by the law and the reality given to the state and the law, the interpretation of which, as we have seen, the state seeks to limit and control. This twofold nature is particularly striking in the field of culture, where conceptual systems that operate in parallel with the legal texts constantly meet (and sometimes collide) with the former, posing new challenges to those interpreting the law.

2.2 Normative approaches

As indicated in the introduction, the Constitution sets out, among other things, the state's understanding of its roles, including in the field of culture. In the following, I shall present the typical approaches to these roles, with the caveat that my aim is not to provide an overview of the history of ideas, but to summarise certain lines of thought.[6]

2.2.1 Conservatism

The various strands of conservative thought, born out of a reaction to the French Revolution, have in common that they see community culture as a given, and also valuable by virtue of

[6] For the same reason, I do not seek to provide a detailed description of the ideologies used as labels, but merely note that, on the one hand, the traditions are extremely diverse, with sometimes serious tensions and even contradictions between the various tendencies, and, on the other, they often serve to shape identity as the self-identification of certain political actors, sometimes far removed from their intellectual roots.

its very existence. However, the question of what is meant by the culture of a community is an important one, and different authors give different answers to that question. If what is given is the cultural contents of a specific period, for example the aristocratic culture of the *ancien régime*, then the rejection of the revolution implies the need for cultural restoration, which in any case implies state intervention and possibly restrictive measures to prevent a new revolution. If, on the other hand, we take the culture of the present as given, then the ground for criticising the revolution is precisely the unacceptability of intervention, of the violent interruption of organic development. The latter interpretation, however, does not and cannot lead to restoration in the substantive sense, since tradition cannot be created, only maintained. The practical consequence, if any, of such an approach may therefore be the dismantling of artificially constructed barriers. From our point of view, the tension between the two lines of thought is of particular interest since after the 1989 regime change in Hungary, as in other post-socialist countries, it emerged as a dilemma, together with the problem of the impossibility of creating tradition.

2.2.2 Liberalism

The liberal conception is based on the pivotal role of individual choice, as opposed to being determined by tradition on the one hand, or by the decision of the community on the other. That, of course, is not possible for culture as a whole, given the communal nature of culture, but it is possible in terms of certain elements. The issues that are considered liberal causes are therefore linked to meanings in which individual choice, according to the liberal position, does not imply a denial of culture or community. On the contrary, the argument is directed towards the integration of cultural elements that do not fit to tradition or are otherwise rejected by the majority, with tolerance as a minimal goal, and pluralism as the final one. Classical examples of such cases are the neutrality of the state in religious, scientific or artistic matters, or the protection of freedom of expression in the case of manifestations considered offensive or immoral by the community.

Like conservative expectations, the liberal agenda also leads to a dilemma, but unlike the former, it is not the result of – historically contingent – gaps within the tradition, but of its own principles, perhaps necessarily. The groups that make up a plural society are not typically neutral with regard to the cultural contents they represent. Thus, if the state wishes to maintain its own neutrality, it must, on the one hand, renounce the full integration of these groups and, on the other hand, force the members of these groups to give up, at least in part, their claim to exclusivity, precisely in the interest of integration.

2.2.3 Socialism

Socialist views on culture are interesting for us not only because of the constitutional history of the 20th century, but also because these raise the question of state roles in culture from a different (as compared to conservatism and liberalism) and still valid perspective. Egalitarianism concerns both the content and the formal-institutional aspects of culture. As far as content is concerned, the Marxist tradition sees culture as part of the superstructure in relation to the base (i.e., the relations of production), and considers it accordingly as necessarily reflecting the latter. Socialist culture is thus regarded as fundamentally different from the culture produced by capitalism. This necessity does not, however, mean that the direct intervention of the state is avoidable, and indeed justifies the state protection of elements of socialist culture against

competitors. From our point of view, the socialist conception of the role of the state in terms of culture's institutional background may be more important. Indeed, the egalitarian collectivist conception implies that access to cultural goods should be guaranteed to all members of the community, taking these goods out of the reach of market laws. The implementation of this principle, in conjunction with the intervention in terms of content, also constitutes a kind of economic filter, since cultural products not supported by the state cannot reach a wider audience, even in the absence of an explicit prohibition. On the other hand, the production, dissemination and preservation of cultural goods deemed acceptable by the public authorities must, according to this conception, be guaranteed by the state, by providing the appropriate resources and institutions.

2.2.4 Nationalism

One of the important common points of the various strands of nationalism, operating with different notions of nation, is the prominence of culture. Whether we consider the state or the nation (as defined by culture, especially language) as primary to the other,[7] culture is the key to national existence in all conceptions. The situation is similar with regard to the role of the state: the different approaches all consider the role of the state to be essential for the further development and survival of culture. The only difference in this respect is perhaps the perception of multi-ethnic states – and hence the situation of national minorities. The state-centred concept of the nation is incompatible with national pluralism, at least in the sense that minorities as such can have a political role, which necessarily limits the possibility of recognising cultural diversity. In the case of the culture-based concept of the nation, the nation-state framework of autonomy appears rather as an objective, or an institutional guarantee of maintaining one's own culture.

3. The historical definition of the relationship between the state and culture in the *Fundamental Law of Hungary*

For Hungarian constitutional law, dealing with the concept of nation(s) and national minorities is a century-old challenge, which the drafters of the Fundamental Law had to face. As the following subsection points out, it is in this conceptual framework that culture first appears in the constitutional text.

3.1 Nation and culture

The concept of culture is both explicit and implicit in the National Avowal, the preamble of the Fundamental Law of Hungary. It is made explicit in the following formula:

> We commit ourselves to promoting and safeguarding our heritage, our unique language, Hungarian culture and the languages and cultures of national minorities living in Hungary, along with all man-made and natural assets of the Carpathian Basin. […]
> We believe that our national culture is a rich contribution to the diversity of European unity. We respect the freedom and culture of other nations, and strive to cooperate with all nations of the world.

[7] Even in case the concept of nation is based on ethnicity defined on a biological-genetic basis.

A common feature of these sentences is that they identify national and ethnic communities as the bearers of culture. A similar approach can be read in the phrases implicitly referring to culture through spiritual values, unity, or achievements ("We are proud of the outstanding intellectual achievements of the Hungarian people", "We promise to preserve our nation's intellectual and spiritual unity, torn apart in the storms of the last century", "We hold that the strength of a community and the honour of each person are based on labour and the achievement of the human mind"), as well as those relating to certain elements of culture (in particular "religious traditions" and "historical constitution").

Given the fact that the subject present in the text of the National Avowal, named in two different ways ("we, the members of the Hungarian nation" and "we, the citizens of Hungary"), is itself linked to a cultural-political community, it seems obvious that the constitution-maker also understands the Fundamental Law as part of the national culture, which at the same time contributes to the creation and maintenance of the unity of this culture. The references in the National Avowal, both in its form and content, which are intended to create a link with the tradition of nationalist discourse, play a key role in this (see Hörcher, 2011).

As a consequence, the relationship between the two possible carriers of national culture in the text becomes an important issue, especially since the identification of the members of "the Hungarian nation" is less clear than that of "the citizens of Hungary".[8] In relation to the former, the references to the "tearing apart" of the nation on the one hand, and to the "national minorities living with us" as distinct from the subject on the other, provide some clue. The nation thus has members living outside the borders of the state ("torn apart"), but the members of the national minorities living within the borders, with their own culture and language, do not belong to the nation, although they "form part of the Hungarian political community and are constituent parts of the State." The concept of the nation, which can be reconstructed on the basis of the above, is linguistic-cultural and clearly distinct from the state or the political community. At the same time, the underlying concept of culture is primarily ethnic, in so far as "Hungarian culture" and "the cultures of national minorities living in Hungary" are inherently distinct. This perspective, which is more or less clear and has been the basis of many criticisms, is however relativised[9] by the last sentence, whose subject is "the citizens of Hungary," and which thus indicates the link with the subject of constitution-making more clearly than any previous designation. The new constitution, "the Fundamental Law of Hungary," is a political act in its content and a state act in terms of form, and is thus created by "the Hungarian political community" and the "constituent parts of the State." Reading the text in a linear way, one can therefore say that in the "avowal", which is also "national" in its title, the linguistic-cultural concept of nation gradually gives way to a state/politics-centred one, and thus the boundaries of national culture seem to expand.

In the following, the question requires attention whether, in addition to the link to the national community, substantive elements can be defined within the Fundamental Law's concept of culture. This will be examined, on the one hand, through the reference to "Christian culture" and, on the other, through the concepts of "(the achievements of) the historical constitution" and "constitutional identity".

[8] For a thorough analysis of the concept of nation in the (then current) text of the Fundamental Law see Smuk (2015).

[9] See, for example, Körtvélyesi (2012), referring explicitly to the opening sentence in his title, and Pap (2014).

3.2 Christian culture

While the National Avowal refers to the role of Christianity "in preserving nationhood", Article R(4) ("The protection of the constitutional identity and Christian culture of Hungary shall be an obligation of every organ of the State"), introduced by the Seventh Amendment (2018), is designed to protect Christian culture.[10] The first reactions in the literature tried to grasp the significance of the amendment from two perspectives, partly as a political act (Halmai, 2018) and partly as an interpretative task for the constitutional judiciary (Schanda, 2018). The former approach may be justified by the – historical – fact that the reference to Christian culture was introduced in the text by an amendment[11] and the latter by the – systematic – consideration that the previous paragraph (3) of Article R provides guidance on the interpretation of the Fundamental Law.

The two perspectives lead to two different readings. Halmai highlights the dichotomy inherent in the adjective "Christian" (Christian vs non-Christian) and points out that the amendment may provide a basis for questioning the equality of Christian and non-Christian citizens. Schanda, on the other hand, takes as his starting point the notion of "protection of culture", contrasting the latter with faith and religion, and the former with the creation of culture. This interpretation thus emphasises that state authorities should not seek to strengthen the protection of Christian beliefs or religious convictions, still less to disseminate them, but to protect a culture[12] which is already considered to exist but whose content is changing. This, especially in the context recalled by the mentioning of "constitutional identity", refers to a kind of national identity rather than a certain religious belief (see Schanda, 2018, 1; Könczöl, 2017, 255), in the same way as the National Avowal mentions Christianity for its political role and speaks of "religious traditions" not in general but in relation to the history of the country.

From our point of view, however, the debate is interesting primarily because it illustrates the thesis outlined in the introduction, according to which the state is involved in the construction of the meanings that constitute culture, and even tries to influence the interpretive activity of other actors in the process, but this influence has strong limits. It can be seen that a positive rule referring to "Christian culture" creates its own concept of "Christianity", but the interpretation of that concept will not and cannot be completely independent of the concept of "Christianity" in other social discourses, while it is going to influence their interpretation.

3.3 Constitutional culture: achievements and identity

According to Article R(3) of the Fundamental Law, "The provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal contained therein and the achievements of our historic[al] constitution." Since the Seventh Amendment, this has been followed by the provision on the protection of "constitutional identity" and Christian culture

[10] The Ninth Amendment (2020) added a sentence to Article XVI providing that "Hungary shall protect the right of children to a self-identity corresponding to their sex at birth, and shall ensure an upbringing for them that is in accordance with the values based on the constitutional identity and Christian culture of our country."

[11] For the original government proposal (proposal T/332) see https://www.parlament.hu/irom41/00332/00332.pdf, for the summary amendment proposal of the Legislative Committee (T/332/11) see https://www.parlament.hu/irom41/00332/00332-0011.pdf.

[12] And this culture contains elements both compatible and contradictory to Christian views: Schanda (2018, 3).

quoted above, while the Twelfth Amendment provided for the creation of a new administrative organ. It was also the Seventh Amendment that introduced the sentence linking the two concepts of constitutional identity and the historical constitution: "We hold that the protection of our identity rooted in our historic[al] constitution is a fundamental obligation of the State".

Looking at the individual elements of the provisions cited, one can see that their interpretation raises more problems than that of Christian culture, since their meaning, unlike that of Christianity, does not seem to have its reference outside of the framework of the Fundamental Law. This is contradicted by the "historical constitution", precisely because of its historicity, only insofar as it carries meanings that predate the act of constitution-making. However, these meanings must be linked to the text of the Fundamental Law by the interpreter who wishes to apply the text as a constitution: it is therefore a question of labelling certain clauses of the Fundamental Law or the underlying principles as "historical".[13] In its much-quoted Decision 22/2016 (XII. 5.) AB[14] the Constitutional Court concludes a list of examples by stating that "[t]hese are, among others, the achievements of our historical constitution, the Fundamental Law and thus the whole Hungarian legal system are based upon."[15]

The focus on the protection of national identity and constitutional self-identity can also (and above all) be explained by the fact that, with varying intensity, there is a constant struggle in the European Union between the different legal systems, domestic and European, which can be understood as a quasi-federal dispute with the nation states (Könczöl & Kevevári, 2020, 166). It is also in this struggle that the reference to (Christian) culture can be understood as a move to give priority to the historical-cultural element as opposed to the legalisation of the concept of constitutional identity.[16] It is important to see, however, that in all these references and their interpretation, the constitution-maker and the interpreter of the constitution are shaping a set of meanings that can be called culture, and within it, legal or constitutional culture. In this context, identity (self-identity) means nothing more than the non-contradiction of meanings, constantly changing in content but a constant expectation[17] and assumption in terms of form.

Conclusion

From the brief overview of the history of the usage of "culture" in Hungarian constitutional texts it may be apparent that as an extra-legal term, it may serve as a versatile rhetorical topic,

[13] See, first of all, Decision 33/2012 (VII. 17.) AB (Reasons IV.1.). For the official English translation, see https://jogkodex.hu/doc/3180976. See also Schweitzer (2017, 144–145).

[14] For the official English translation, see https://shorturl.at/zFZEd

[15] While the decision states that "the constitutional self-identity of Hungary is a fundamental value not created by the Fundamental Law – it is merely acknowledged by the Fundamental Law" (Explanatory Memorandum, [67]), it also states that "[t]he Constitutional Court of Hungary interprets the concept of constitutional identity as Hungary's self-identity and it unfolds the content of this concept from case to case, on the basis of the whole Fundamental Law and certain provisions thereof, in accordance with the National Avowal and the achievements of our historical constitution – as required by Article R) (3) of the Fundamental Law" ([64]).

[16] On possible meanings of constitutional identity and the changing concept of identity in the treaties and case law of the European Union, see Faraguna (2017). On the concept of constitutional identity in general and in the context of the Fundamental Law, see Drinóczi (2016).

[17] Discussed in relation to Art. R (3) and (4), in terms of the legislative procedure, by Gera & Szentgáli (2022).

or source of arguments (see Könczöl, 2009, 403–405), the content of which is determined by the context where it is used. The same goes for "identity" in general. In the Fundamental Law, however, the term "constitutional identity" appears in a broader sense than what is usual in European constitutional discourse. That is due to the link established between the (historicised) concepts of culture and identity – and indeed that of constitutional identity, related in the text to "the historical constitution." Thus, references to the constitutional identity of the country may yield arguments beyond the opposition of domestic and EU law, and certainly beyond the field of fundamental rights protection.[18]

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[18] As Drinóczi (2016, 40) has already pointed out.

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Comparative analysis of the equality plans of the Provincial Council of Ourense, Spain

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Abstract

The purpose of this document is to identify which actions in the Equal Opportunities Plan 2023–2026 of the Ourense Provincial Council have the potential to increase equality of opportunity between women and men in positions of similar status, with respect to an analysis of the objectives of the First Equality Plan of (2017–2021). The methodology for measuring the achievements of these strategic objectives consisted of a descriptive comparative study, where the changes in the stated objectives were analyzed, and a quantitative functional study was undertaken to determine the relationship between the typology and functionality of each position. A clear distinction was made between the goals achieved and those requiring more decisive intervention in future. In addition, it recognizes that women are very underrepresented in the most desirable positions at Ourense Provincial Council.

Keywords

equality, job opportunity, gender, promotion, work, job functionality

1 Introduction to the study of equality in public administration

Equal opportunities between women and men are a priority both for the image of public administration, and for its proper functioning. It is essential to guarantee that there are no discriminatory practices reproducing gender inequalities between the men and women working in public administration, since the right to gender equality is a fundamental value in any democracy. Furthermore, the cross-cutting nature of this issue means that public authorities are required to take it into account in the analysis, planning, design, and implementation of their policies (Corominas, 2022).

Equal opportunities comprise a value recognized in the Galician legal system. Act 2/2015 of 29 April on public employment in Galicia article 72.2 lays down the obligation for public administrations to develop an Equality Plan and establish staff working conditions in their Collective Agreements.

Since then, the Ourense Provincial Council, which presented its first Plan for Equal Opportunities between Women and Men 2017–2021, is currently beginning to implement the

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Second Plan for Equal Opportunities between Women and Men 2023–2026[1]. It is for this reason that the analysis of the results derived from the implementation of the first plan forms the basis of this comparative analysis.

According to the Final Evaluation Report of the 2017–2021 plan, of all the actions laid down in the plan: 69% were carried out; 22% are ongoing; 6% were suspended; and 3% are pending. In December 2022, the Ourense Provincial Council had a workforce of 797 people (including permanent staff), of whom 625 (78%) were men and 172 (22%) women. This is in contrast with the fact that women are usually better represented in public administration than in the private sector; moreover, as stated in the Second Equality Plan (2023–2026), the areas where the provincial council employs a greater number of staff are Infrastructure and Environment, both of which are very male-dominated with women underrepresented.

Gender equality is of central importance for growth and competitiveness, so it is important to compare one plan with the next to identify which actions have been effective, which have not and, if necessary, to help design new actions to improve the gender balance among staff at the Ourense Provincial Council in an effective manner.

1.1 Theoretical framework and review

The consideration of gender equality "seeks to open a space for reflection on the roles that society attributes to women and men, claiming gender equality as that which understands the participation and empowerment of women and men in the public and private spheres, with equal access to decision-making opportunities" (Aguilar, 2010, 76).

Aguilar (2010, 76) defines the concept of gender as "a socio-cultural construction that analyses the behaviors, attitudes, values, symbols and expectations elaborated on the basis of the biological differences that each society attributes to women and men, according to their own characteristics", while for Villalobos and Avilés (2012, 21) "gender acts as a structuring principle of human societies, differentiating men and women, and converting these differences into hierarchical and unequal relationships".

If we seek out the origin of the term 'gender', we find it in John Money, the first to spoke of 'gender role' with reference to the modes of behavior, way of expressing and moving, and preference for topics of conversation and play characterizing masculine and feminine identity. For Money, the establishment of gender identity occurs at eighteen months, as the culmination of a process involving both biological and social components. The impact of his research in the social sciences is due to the importance he assigned to cultural factors compared to biological ones, which saw in difference, and even in inequality, an expression of the opposite nature of the sexes (Puleo, 2008, as cited in Villalobos & Avilés, 2012, 26).

Therefore, the concept of gender equality is configured through different interpretations developed by a variety of institutional and civil society actors, following previous interpretations that have become dominant or entrenched as 'common sense'. The meanings of the concept are fixed for some time, narrowed within, or extended beyond labels, and adapted to political frameworks (Lombardo, Meier & Verloo, 2010, 109). For Beltrán y Puga (2008, 201) "equality has to do with everything: with the protection of fundamental rights by prohibiting arbitrary and unjustified treatment of women in decision-making and by legitimizing positive actions that promote equal opportunities for social groups".

[1] The plan was recognized as a first runner-up in the "Government Campaign of the Year 2023" section of the Napolitan Victory Awards, organized by The Washington Academy of Political Arts and Sciences.

Women have historically been thought of as those responsible for reproduction; meanwhile, the state – as a place of public affairs and formulation of policies aimed at citizens constituted by neutral and disembodied subjects – has been thought of as alien to the lives of women who develop within the private-domestic sphere. This historical nature of the State supports policies that consider women as inappropriate beings. In this way, the feminist gender point of view has illuminated something that was not perceptible until a few years ago: state policy is sexually biased. To address the issue of the sexual bias in the relationship between the State and women through public policies and their effects on gender relations, we will consider the concept of citizenship (Anzorena, 2014, 27).

Thus, "one of the areas in which most efforts, constitutional and legislative reforms, plans and platforms for action, and affirmative action measures at both international and regional levels have been concentrated is around guaranteeing equality between women and men" (Pautassi, 2011, 280).

However, policies are not mere tools of the State, rather they are its builders, in a process in which the state and the recipients of public policies intertwine and interact in a framework of the exercise of power and resistance. Concepts of gender, the relationships they imply, the roles they legitimize, and the practices that are normalized and contested are constructed, signified, and resignified in this same process (Río Fortuna, González Martin & País Andrade, 2013, 58).

If we look at the path taken by gender equality policies in Spain, we can observe three strategic lines of action in the design and planning of these policies by the general state administration in Spain and the European Commission; these are (Fernández de Castro, 2012, 79):

– gender mainstreaming in public policies,
– the demand for measures leading to women's empowerment, and
– co-responsibility as an evolution of the principle of work-life balance.

Article 14 of the Spanish Constitution proclaims the right to equality and non-discrimination on the grounds of sex. Furthermore, Article 9.2 enshrines the obligation of public authorities to promote conditions for the equality of persons and groups to become real and effective. From the above normative review, one issue is clear: the objective of the law is the right to effective equality between women and men. However, in some cases it concerns combating direct and indirect discrimination, while in other cases, it merely concerns 'promoting' equality (Bodelón, 2010, 98). Empirical reality shows how job performance depends on many factors that cannot be controlled in advance. Hence, the basic objective of the regulations is to implement and promote a socio-labor framework which facilitates gender equality.

According to Bodelón (2010), the reason it is necessary to move towards a concept of effective equality is the lack of a basic explanation for the inability to achieve formal equality and equal treatment which can account for the social relations of subordination and for the structures of authority developed around gender.

Those policies that strengthen the processes of individualization, empowerment and increased representation of women as political subjects provoke greater resistance because they directly affect the mechanisms of the distribution of power, and the sexual division of labor between women and men, while also challenging policy paradigms (Guzmán & Montaño, 2012, 32).

Guzmán (1998) states that the resistance which has made the social construction of gender equality a difficult organizing principle of democracy responds to various causes. Some of these are the result of the inertia of cognitive and value systems; others arise from the reluctance of men to see their interests threatened by competition from women in public and private spaces, and others arise from a deeper substratum: they are associated with fear generated by changes

in the other's identity caused by questioning their own identity, and with uncertainty about the meaning and consequences of the transformations underway.

However, according to Bodelón (2010, 99) this variety of attitudes and social connotations that policymakers seek to eradicate means that political and social approval and discussion in this regard involves including demands and concepts from the feminist movement, which are sometimes based on exclusively ideological aspects without considering professional practice (Corominas, 2022; Málaga University, 2013). According to Bustelo and Lombardo (2006), the existence of idealized 'interpretative frameworks', devoid of any professional pragmatism and far removed from the problem of gender inequality, conditions the formulation of equality policies.

In Europe, there is a wide variety of interpretations and analyses of gender issues and many strategies intended to address them, influenced by each national political context. "Among feminists, academics or activists, and among ordinary political actors, there is hardly ever a real consensus on either the diagnosis or the prognosis (solution) of the problem" (Bustelo & Lombardo, 2006, 119).

Bustelo and Lombardo (2006, 132) explain that due to gender roles, there is a problem in that men are not included in the representation of either the problem or the solution, making progress towards gender equality difficult. The success of effective gender equality requires a holistic social vision, introducing an intersectional analysis.

Therefore, when talking about positive actions and, more recently, parity, it is thought that the conventional policies intended to create equal opportunities, the objective of which is to equalize the starting conditions, are insufficient in situations where real inequality is very pronounced, even if formal equality can be achieved through such policies (Osborne, 2005). In many cases, the diagnosis of the problem is not correct, which means that the solutions are not aimed at the actual problem and often exclude the socio-labor reality in the performance of a job or an operational function.

In this research, we will focus on the area of work where Bustelo and Lombardo (2006, 132) exemplify this perfectly: in the EU texts, the weak diagnostic framework on the existence of gender inequalities in the labor market is transformed in practice into how women can reconcile work and family through part-time jobs and flexible working hours. As such, the solution does not address the real problem; flexibility and part-time work are temporary solutions to the discrimination against women in employment, and as such merely addresses internal organizational issues.

Unequal gender relations are those that have historically established a subordinate place for women in society and determine the domestic sphere as a priority and reproduction as their main function, while assigning them complementary or secondary positions in the public sphere. Women have been taking on responsibilities in the workplace and community without relinquishing any of their existing responsibilities, driving them into a situation of physical and psychological overload (Anzorena, 2008).

Despite the introduction of gender diversity criteria in organizations, "gender segregation in the workplace is a phenomenon present in most countries, regardless of socio-economic conditions and the existence of anti-discrimination laws that ensure women's full citizenship" (Heredia, 2004, 39).

State intervention reaffirms the sexual division of labor and knowledge. The assignment to certain tasks due to sexual difference implies the denial of the possibility of performing others. Furthermore, through income transfer policies or social goods and services, the State intervenes in the organization of households in need of such assistance, by influencing how tasks are distributed according to sex within the household. The domestic unit, preventing the very same members from arranging the distribution of activities within the home is the new situation (Anzorena, 2008).

To realize the benefits of the diversity and potential offered by women in organizations, it is necessary to create an environment which overcomes traditional barriers to their professional development. "It is not only the workers who have to adapt to the company's philosophy; the company must also adapt to the needs of its members" (Heredia, 2004, 41).

In this context, it is clear that "actions at company level are not enough. It is necessary to adopt measures to reconcile work and family life, beyond those applied to labor relations" (Artazcoz, Escribá-Agüir & Cortés, 2004, 34).

Article 45 of Organic Law 3/2007[2] for the effective equality of women and men includes an obligation for companies to draw up an equality plan negotiated with the legal representatives of the staff of each organization.

"To say here that the cost-benefit ratio of equal opportunities or, in other words, between the level of equal opportunities in a company and its results is a subject that has hardly been explored; companies must convince themselves through certain advantages of the convenience of implementing equality plans" (Calvet et al, 2009, 171).

The above makes it clear that one of the unavoidable obligations of the public sector is to create the structural basis for facilitating an effective work-life balance, a fact stated in almost all the plans analyzed. Hence the need to promote the evaluation of the impact of gender equality policies and how to assess their 'success'.

To this end, Espinosa-Fajardo and Bustelo (2019) proposed the following actions:

1. The evaluation of equality policies creates an essential space to debate the different views on the 'success' of these policies and to build consensus, recognizing the diversity of voices, on what we want to achieve and how to achieve it.
2. Define evaluation criteria for each specific policy and context, broadening evaluation approaches towards other supposedly universal models that only generate a limited understanding of evaluation that focuses on the 'measurable'.
3. Finally, take the criteria of 'gender inclusiveness', 'political commitment', 'understanding complexity', 'contextualizing gender equality', 'intersectionality', 'participation and empowerment' and 'incremental transformation' as a blueprint for evaluating the design.

In this way, it is hoped that "the potential of evaluating equality policies as a tool for learning, improvement and accountability on the part of public administrations makes it necessary to deepen and reflect on it" (Espinosa-Fajardo & Bustelo, 2019, 168). This also reveals how transferring this type of policy to private practice is costly and time consuming, since a majority of equality plans either end up becoming mere declarations of principles or establish measures that are not related to the reality for which they are intended (Sierra Hernáiz, 2018, 204).

Therefore Article 72 second paragraph of Act 2/2015 of 29 April on public employment in Galicia, expressly states the obligation of the public administrations to draw up an Equality Plan and to establish an agreement on working conditions for their staff in the Collective Agreement. As with any public policy, this makes it necessary to evaluate the measures in the Equality Plan, and to guarantee equal opportunities for women and men, with the aim of sufficiently improving gender balance in the workforce by recruiting a greater number of women into public administration.

However, all this leaves an important gap when considering equality in the public sphere, namely that part of the Public Sector which carries out a business activity. Moreover, even within the Public Administration, there are jobs that due to their specific characteristics or

[2] Online: https://www.boe.es/buscar/doc.php?id=BOE-A-2007-6115

operation influence the typology of the human capital which performs them; a large part of the jobs performed by a Provincial Council fall under this specific operational function. This means that the distribution of jobs is defined by their nature, making them desirable according to gender.

2 Objective and methodology

Hence, the aim of this paper is to identify which measures in the Plan for Equal Opportunities between Women and Men 2023–2026 of the Ourense Provincial Council have the potential to improve equal opportunities for women and men in positions of similar status in comparison with improvements achieved under the First Equality Plan (2017–2021). However, it is first necessary to describe the public institution analyzed: the Ourense Provincial Council, which governs a province with 304,550 inhabitants as of 2023, 34% of whom live in the provincial capital (city of Ourense)[3].

Research question: What new actions does the Provincial Council need to implement in its Equality Plan to facilitate access to the workforce for women in an effective manner?

Regarding the methodology used to measure the scope (achievement) of the General Objectives or Strategic Axes set out in the I Equality Plan (2017–2021), two studies were carried out:

1. A comparative descriptive study in which through a survey of the staff of the Ourense Provincial Council, the level of achievement of each strategic Axis (major objective) was addressed separately, using direct questions in relation to the strategic and operational objectives of each Axis. The survey was conducted between November 2022 and March 2023, and the number of responses obtained was one hundred and ten, which represents a response rate of 17.6% of the number of council staff on contract as of 31 December 2022.

The questionnaire that makes up the survey was inorganized into seven thematic blocks:

1. General data on the workforce
2. Professional classification, promotion and training
3. Conciliation and co-responsibility
4. Working Day
5. Occupational health
6. Prevention of gender violence
7. Language and inclusive communication.

The questionnaire was drawn up in keeping with guidelines set out in Royal Decree 6/2019, Article 45, paragraph 2, which states: Equality plans shall contain an ordered set of assessable actions aimed at removing obstacles that prevent or hinder the equality of women and men in practice, and shall include at least the following areas:

a. Recruitment and hiring
b. Professional classification
c. Training
d. Professional promotion
e. Working conditions

[3] The Ourense Province has an area of 7,273 km2 and is made up of 92 municipalities; it is the only province in the Autonomous Community of Galicia that does not have sea access.

f. Co-responsible exercise of the rights of private, family and work life
g. Female underrepresentation
h. Remuneration
i. Prevention of sexual and gender-based harassment (see Infonalia, 2020).

2. A functional study of a quantitative nature in relation to the typology and operation of each job in the Ourense Provincial Council, according to Ministry of Equality criteria for evaluating these jobs from a gender perspective. To complete the job performance study, three independent variables were added, these being[4]:

- Occupational Functionality: 1. managerial; 2. technical; 3. administrative; 4. basic; and 5. unclassifiable.
- Professional Category: A1. Base level 26; A2. Base level 24; B. Base level 21; C1. Base level 19; C2. Base level 16; D1. Base level 14; and D2. Base level 12. (A = highest category and D = lowest category).
- Gender feasibility (presence of women) according to the National Classification of Economic Activities (CNAE[5]): High; Medium; Low.

3 Analysis of results

The following is an analysis of the results regarding the status and achievement of equality-related objectives at Ourense Provincial Council after the implementation and development of the First Equality Plan, differentiating in this regard the two types of analysis mentioned above.

3.1 Level of achievement of the Strategic Objectives of the First Equality Plan of the Ourense Provincial Council (2017–2021)

In the First Plan for Equality between Women and Men of the Ourense Provincial Council, 4 strategic axes were drawn up in order to promote equal opportunities. Tables 1, 2, 3 and 4 summarize the main strengths and weaknesses arising from the implementation of the First Equality Plan of the Ourense Provincial Council for each strategic axis. These are: 1) Strategy and internal organization, 2) Balanced participation between women and men, 3) Working time and 4) Health and Safety at Work.

Based on these four major general areas of intervention, nine strategic objectives, twentyfive operational objectives and forty-five actions were specified, which were distributed across the four axes. Studies of a similar nature and characterization can be found in Málaga University (2013) and Pompeu Fabra (2018).

The three strategic objectives included in Axis 1 were to promote gender mainstreaming in the Ourense Provincial Council; incorporate the gender perspective in internal and external corporate institutional communication; and progressively incorporate the gender perspective in all training activities.

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[4] Variables that make it possible to define the occupational functionality of each type of work.

[5] Classification included in Royal Decree 475/2007 by which the National Classification of Economic Activities 2009 (CNAE-2009, which aims to reflect structural changes in the economy and especially technological development) is approved, in addition, to comply with the requirements of Community Regulation No. 1893/2006 of the European Parliament and Council).

To this end, the nine operational objectives and the seventeen actions that belong under this axis sought to disseminate the Provincial Council's commitment to gender equality through the public presentation of the plan; provide internal communication channels that enrich the actions carried out and guarantee their execution by the distribution of responsibilities by the Equality Commission; incorporate the gender variable and include equality clauses in the hope of eliminating gender invisibility caused by the sexist use of language; guarantee the use of non-sexist language and images; adapt and correct sexist uses of language in internal and external documents, external documents and web pages; guarantee, through revision, the use of non-sexist language and images, adapt and correct sexist usage in the language of internal and external documents and provincial council web pages; and incorporate the gender perspective in all training activities, promoting equality training and awareness-raising.

At the end of the implementation period for the First Plan, fifteen of the seventeen actions had been carried out. However, the results of the survey show that of the total number of participants, 54.3% stated that they had not received training from the Provincial Council in the last year; although 86.9% were aware of the training actions promoted by the Provincial Council. 65.3% of the respondents said that they had received no training in gender mainstreaming, compared to 34.7% who did have such training, and of these 53.8% were women and 46.2% men.

Analyzing the responses on the inclusive use of language, the majority (> 80%) of the provincial council staff consider their use of language to be inclusive from a gender perspective. However, 76% stated that they had not received any training on inclusive use of language, and of the remaining 24%, 54.2% said that such training had not been provided by the provincial council. The summary of the situation of this first Axis is shown in Table 1.

Table 1. Situation descriptor Axis 1 "Strategy and Internal Organization"

Strengths, aspects to be reinforced
Communication, the staff are aware of the training activities promoted by the provincial Council and consider that their use of language is inclusive from a gender perspective.
Weaknesses, areas for improvement
Staff have not received regular, formal training in gender mainstreaming from the provincial council and are unaware of any protocols or guidelines on the inclusive use of language.

Source: Authors' own table.

The two strategic objectives that make up Axis 2 were: to promote the incorporation of opportunities between women and men in the management of the Provincial Council's resources; and to promote full participation of staff in all the organization's processes. This axis is made up of seven operational objectives and thirteen actions.

This axis seeks to review and modify the content and wording of advertisements for employment, to eliminate those elements that could lead to a gender-biased result; to generate analysis of the situation of the entity from a gender perspective in order to develop employees' professional potential; to strive for gender balance in job applications; to integrate gender perspectives into internal promotion procedures; to favor equal participation of staff in all the organization's processes; and to encourage negotiation meetings and participation in schedules that reconcile work and family life.

In this case, out of the thirteen actions planned in 2017, seven were carried out. The results show that participants in the survey do believe that the selection of personnel is carried out by following criteria that guarantee gender equality. Although 52.6% of the respondents accept that there are positions in which men or women are very underrepresented; out of this 52.6%, 52.5% are men and 47.5% women.

Analyzing the distribution by occupational subgroups shows that the ratio of women to men in subgroup A1 (highest category) is very similar, in contrast to subgroup A2, where the percentage of women (56.4%) exceeds that of men. In the next subgroup (category B), men outnumber women. In subgroup C1 (administrative staff) the situation is reversed; the percentage of women and men is similar, with a slightly higher percentage of women, although in subgroup C2 the percentage of men is higher.

Analyzing the staff according to the type of employment contract shows that in the case of staff with civil-servant status, the percentage of women and men is similar, with a slightly higher percentage of men. With respect to permanent staff, the proportion of men is 80% compared to 20% of women.

Only 15.6% of the respondents had applied for promotion in the last five years, and of these only 37.5% were women. It is also noteworthy that 43.7% of the people surveyed are not seeking promotion or to change to a better job, and 77.4% think that women and men are promoted equally.

In terms of working hours, most of the participants work full time (94.9%), i.e.: between thirty-five and forty hours per week. It should be noted that 61.4% say that they have flexible working hours, while 96.2% do not have reduced working hours. It is also important to highlight that 80% say that work, meeting, and training times help them to reconcile work, private and family life, but more so in the mornings and less so in the afternoons. Table 2 summarizes the status of the second Axis.

Table 2. Situation descriptor, Axis 2 "Balanced participation of women and men"

Strengths, aspects to be reinforced
The selection of personnel is carried out according to criteria that guarantee gender equality. Women and men are equally promoted to better jobs. Working hours, meeting times and training schedules facilitate the reconciliation of work, personal and family life for provincial council staff.
Weaknesses, areas for improvement
Male employees account for almost 80% of the workforce. There are jobs in which men or women are very underrepresented and which do not facilitate access to any professional group or category for women and men → the effects of flexible working hours are hardly reduced, with the option of reduced working hours being unexploited.

Source: Authors' own table.

Axis 3 has a single strategic objective: to promote the reconciliation of private, family and working life, facilitating changes in attitudes which are favorable to co-responsibility in the domestic and professional spheres.

This led to the design of four operational objectives and nine actions to be carried out. In short, they aimed at identifying the needs of the provincial council's employees in terms

of work-life balance; offering employees different options to enable them to easily reconcile work, family and personal life, through financial aid, more flexible working hours and the establishment of preferences for the choice of shifts and holidays for caring responsibilities; as well as encouraging the use of work-life balance actions among male employees of the provincial council.

By the end of 2021, five of the nine actions had been implemented. This was reflected in the survey responses, where, despite 49.5% of people claiming to have either one or two children, it is remarkable that 47.6% have no children of their own, and of this 47.6%, 52.6% are women, compared to 47.4% men.

Of the 49.5% of respondents who say that they have family responsibilities (of whom 65.7% are women and 34.3% are men), 65.5% say that they are the main carers of family members. Of the people who need help to meet family responsibilities, 62.1% rely on their family network, 44.8% on professionals and 13.8% on public services.

While it is true that 61.9% say that they manage to reconcile work and family life satisfactorily, 30.2% say that they do so only with difficulty and 7.9% say that they do so with great difficulty. However, if we analyze these data broken down by sex, 40.5% of women say that they manage to reconcile work and family life, 38.9% say that they manage to do so with some difficulty and 60% say that they manage to do so with great difficulty. Meanwhile, 59.5% of men say that they manage to reconcile work and family life, 61.1% that they do so with some difficulty and 40% that they do so with great difficulty. Table 3 outlines the state-of-play for the third axis.

Table 3. Situation descriptor, Axis 3 "Working Times"

Strengths, aspects to be reinforced
The provincial council develops actions which favor flexible working hours, facilitating a satisfactory work-life balance for staff.
Weaknesses, areas for improvement
Most of those women who family members' main carers report great difficulty in reconciling work and family life. Lack of effective public services to facilitate work-life balance.

Source: Authors' own table.

Finally, the strategic objectives set out in Axis 4 are threefold: to incorporate the gender perspective in the promotion of occupational health; guarantee a working environment free of harassment, sexual harassment, and gender-based harassment; and guarantee the right to comprehensive protection for victims of gender-based violence.

This axis includes five operational objectives and six actions, focused mainly on assessing occupational risks and their repercussions, especially for women; guaranteeing health protection and improving workers' quality of life by providing them with work equipment and/or uniforms adapted to their needs; guaranteeing a respectful working environment free of harassment at work, sexual harassment and gender-based harassment through the development of a preventive protocol and the training of staff responsible for monitoring these cases; and disseminating the rights and protection actions aimed at female workers who are victims of gender-based violence.

Even though only three actions were carried out of the six planned, the data obtained in the occupational health section show a workforce which regularly reviews its medical situation,

is aware of the existence of the Occupational Risk Prevention Plan[6] and a workforce which believes that the work patterns, volume, and breaks are adequate.

However, 35.6% of the participants, of whom 25% are women and 75% are men, consider that they occupy a position with a certain risk to their physical or psychological health, mainly due to hours of computer use, stress, pressure, poor planning of events, handling chemical products and a heavy workload. In addition, 47.5% of men and 52.5% of women consider that they do not receive the necessary information and materials to ensure their physical or psychological welfare at work.

Now, regarding the prevention of gender-based violence, 84.5% of people consider it necessary to train staff in the detection and prevention of harassment at work, as they are not aware of the existence of a protocol for action in cases of sexual aggression or gender-based aggression, nor do they know what procedures to follow in the event of harassment at work.

74.3% of the respondents do not believe that ironic or mocking comments about people's physical appearance, dress or sexual orientation are commonplace at the provincial council; 25.7% responded in the affirmative, 72.22% of them being women and 27.78% men, Table 4 shows the state-of-play for this fourth strategic axis.

Table 4. Situation descriptor, Axis 4 "Safety and Health at Work"

Strengths, aspects to be reinforced
Provincial council staff are aware of the existence of the Occupational Risk Prevention Plan and consider that work patterns, volume, and breaks are adequate. It is considered that at the provincial council there are no ironic or derisive comments in relation to people's physical appearance, clothing, or sexual orientation → optimal working climate.
Weaknesses, areas for improvement
A high percentage of jobs present a high risk to physical and mental health. Staff are not provided with the information and materials necessary to ensure their welfare is protected. Staff are unaware of the existence of a protocol for dealing with alleged cases of sexual assault, gender-based violence or harassment at work → more training on how to act in the event of such a case.

Source: Authors' own table.

3.2 Functionality and labor typology of the Provincial Council of Ourense

As explained above, analysis of the information at the level of gender equality obtained from an internal survey at the Ourense Provincial Council was completed with a study of the functional and operational typology of council jobs. For this purpose, Table 5 shows the distribution by sex of the staff of the Provincial Council on 30 June 2022 (period of maximum staffing levels to meet summer needs) and where there is strong male preponderance, precisely in those areas with a larger workforce, these being Infrastructure and Environment, both characterized by

[6] The Occupational Risk Prevention Plan (PRL) is an internal management plan, the purpose of which is to protect the health and safety of employees at work.

high levels of itinerant and manual jobs, characteristics that lower the desirability and presence of women.

Table 5. Distribution of W/M according to Major Areas

	Women		Men		Total	
Large Functional Areas	NO.	%/Tot	NO.	%/Tot	NO.	%/Tot
General Administration	35	24.3%	36	5.8%	71	9.30%
Finance	32	22.2%	20	3.2%	52	6.8%
Infrastructure	14	9.7%	290	46.9%	304	39.9%
Environment	10	6.9%	158	25.6%	168	22.0%
Area of Culture and Sport	34	23.6%	54	8.7%	88	11.5%
Transparency and Open Government	3	2.1%	13	2.1%	16	2.%
Presidency	16	11.1%	47	7.6%	63	8.3%
Total	144		618		762	
Media	20.571		88.286		108.86	
Coefficient of deviation	0.5821		1.0616		0.8319	

Prepared by the authors, note: the workforce totals 762 jobs when including temporary and intermittent staff hired to meet the summer and current temporary needs on 30 June.

Meanwhile, the areas with the highest rate participation by women are General Administration, Culture and Sports, and Finance. These are areas where functionality is less susceptible to differences in terms of desirability according to gender, and where a large part of the jobs they include are technical or administrative, where access is usually by competitive examination and where the main influencing factor is usually the level of studies obtained and previous work experience, with a high deviation observed in all cases.

For these reasons, the data in Table 5 make it clear that there are certain limits to achieving a substantial modification in the W/M ratio due to the large-scale recruitment in two areas: infrastructure (public works, conservation, and maintenance) and the environment (cleaning, parks and gardens and environmental sustainability). These are functions where a large part of the tasks performed require that the worker is mobile and involve a physical component. The W/M ratio will only change substantially if the standard tasks of the provincial council are modified.

Table 6 shows labor distribution by gender according to the criteria of the Ministry of Equality, to which three characterization variables have been added: functional occupation, professional category, and gender feasibility in female key according to the CNAE, which is necessary to interpret the composition of the Ourense Provincial Council workforce.

The functional typology shown by the data reflects a nominatively heterogeneous distribution of jobs: categorization with fifteen types of jobs belonging to the higher categories, A and B, and fifteen types of jobs belonging to levels C and D; occupation with fifteen types of jobs belonging to occupations 1, 2 and 3, and the same to occupations 4 and 5. However, when studying the number of jobs per functional typology, the concentration of jobs in the medium-low category and occupation increases, as shown in tables 7, 8 and 9.

Table 6. Labor Panel for gender-sensitive job evaluation

Post	Women	Men	Total	Function	Category	Feasibility (W/M)
administrative	6	9	15	3	C1	HIGH
bricklayer	0	6	6	5	D2	LOW
architect	0	1	1	1	A1	MEDIUM
consultant	4	9	13	2	A2	HIGH
auxiliary	7	11	18	4	C1	HIGH
assistant	1	27	28	5	C2	MEDIUM
firefighter	0	12	12	2	B	LOW
foreman	0	21	21	3	B	MEDIUM
warden	0	1	1	4	C2	HIGH
chauffeur	1	153	154	4	D1	LOW
driver	0	15	15	4	D1	LOW
coordinator	0	5	5	2	A2	HIGH
director	1	1	2	1	A1	HIGH
electrician	0	2	2	4	B	LOW
team leader	0	5	5	1	A2	HIGH
laboratory technician	0	1	1	2	B	HIGH
road labourer	2	62	64	5	D2	LOW
cleaner	4	0	4	5	D2	HIGH
machinist	0	23	23	4	D1	LOW
mechanic	0	7	7	2	B	LOW
teacher	4	9	13	2	A2	HIGH
monitor	4	13	17	3	B	HIGH
officer	2	33	35	2	B	MEDIUM
operator	8	52	60	4	C1	HIGH
pawn	1	30	31	5	D2	LOW
janitor-sereno	11	30	41	5	D1	MEDIUM
sprinkler	0	6	6	5	D2	MEDIUM
technician	1	2	3	2	B	MEDIUM
watchman	0	13	13	4	D2	LOW
team leader	1	8	9	1	A1	HIGH
Totals	58	567	625			

Source: Authors' own table, based on the data collected in the Second Plan for Equal Opportunities between women and men of the Provincial Council of Ourense, following the criteria of the Ministry of Equality and the National Classification of Economic Activities.

Only the characterization of the four jobs with the highest number of people employed shows the specialization of the Ourense Provincial Council in jobs where men are very overrepresented:

driver + road worker + operator + porter = 319 jobs, no less than 51% of the total number of jobs identified; this situation makes it especially difficult to achieve strategic axes 2 and 3.

Table 7 shows the distribution of the workforce of the Ourense Provincial Council on 30 June 2022, based on the criterion of a greater/lesser presence of women performing jobs, according to CNAE data. The first thing that can be observed is that jobs in which women are underrepresented account for more than half of the workforce of the Provincial Council (52.3%) and, moreover, in these jobs the number of women barely exceeds 1% of those employed. Furthermore, in those jobs where women are highly represented, the Ourense Provincial Council barely reaches female participation of 24%.

Table 7. Gender Feasibility W/M

	Women	Total	% M/T	%over/ Template
High	39	163	23.93%	26.1%
Medium	15	135	11.11%	21.6%
Low	4	327	1.22%	52.3%
Total	58	625	9.28%	

Source: Authors' own table.

Thus, the gender feasibility of the job, as expressed in Table 7, acts as a constraint on the distribution of staff between women and men. The occupation type has a limiting effect on the competitive gender balance.

Table 8 classifies the Ourense Provincial Council workforce, according to the nature of the occupation exercised, and where it can be seen that occupations which require fewer qualifications and are more manual are those that predominate. However, there is no direct relationship in either direction between occupation and number of women employed, and the percentage of women in the management is barely 12% and in the basic category 10.5%.

Table 8 also relates occupation to gender desirability, showing how female desirability decreases as we go down the occupational ladder, 72% low female presence in auxiliary occupations and 56% in basic occupations. By contrast, managerial positions have high gender desirability. However, the total number of managerial positions is only seventeen; the case is similar for the administrative level with high gender desirability (60%) but only fifty-three jobs.

Table 8. Occupational Function W/M and its relation to Gender Feasibility

Occupation	Women	Total	%M/T	Feasibility – High	Feasibility – Medium	Feasibility – Low
1. Directive	2	17	11.76%	16–94%	1–6%	0
2. Technical	11	89	12.36%	32–36%	38–43%	19–21%
3. Administrative	10	53	18.87%	32–60%	21–40%	0
4. Auxiliary	16	286	5.59%	79–28%	0	207–72%
5. Other basic occupations	19	180	10.56%	4–2%	75–42%	101–56%
Total	58	625	9.28%	163	135	327

Source: Authors' own table.

In statistical terms, the functional occupation shows a high correlation with respect to the gender distribution of jobs, with an R2 of 0.57 between women's job distribution and occupation. Again, jobs are clustered at lower skill levels and with a higher manual workload. The standard sampling error is low, although the distribution of the data is insufficient to ensure high statistical significance, as reflected by the value of the t-statistic 1.64017 (single-digit breakdown).

Table 9, classifies Ourense Provincial Council staff, based on their professional category[7]. This classification organizes public employees into the following categories:

A1. Career civil servant in management or supervisory positions;
A2. Career civil servant with great specialization in their field of work;
B. Career civil servant with a medium level of responsibility and technical skills;
C1. Civil servant with intermediate training who performs simple administrative or technical tasks;
C2. Official with minimum required training and who performs general or support tasks;
D1. Auxiliary or general service official who performs specialized support and assistance tasks;
D2. Auxiliary or general services official who performs basic tasks.

Where it is observed that the categories of lower qualification are those with greater presence within the composition of the reference staff, category D (positions without specific qualifications) currently represents 57.1% of the Ourense Provincial Council staff. It is followed by 15.7% of technicians at level B, and senior administrative staff (C1) with 14.9%. The A category accounts for 7.7%.

Women are only represented to any significant extent in two categories, C1 and A2, with over 20% participation of women in both cases. In this sense, there is a direct and negative relationship between category and representation of women, since the three categories requiring the lowest qualifications are those with the lowest participation of women.

When relating category and gender feasibility, Table 9 again shows how female feasibility decreases as staff categorization decreases, see the 82% low female presence in category D1 and 92% in D2. In contrast, category A maximizes high gender feasibility.

Table 9. Job Category W/M and its Relationship to Gender Feasibility

Category	Women	Total	% M/T	Feasibility -High	Feasibility -Medium	Feasibility -Low
A1	2	12	16.67%	11–92%	1–8%	0
A2	8	36	22.22%	36–100%	0	0
B	7	98	7.14%	18–18%	59–60%	21–22%
C1	21	93	22.58%	93–100%	0	0
C2	1	29	3.45%	1–3%	28–97%	0
D1	12	233	5.15%	0	41–18%	192–82%
D2	7	124	5.65%	4–3%	6–5%	114–92%
Total	58	625	9,28%			

Source: Authors' own table.

[7] The classification by functional categories of employment is included in Royal Legislative Decree 5/2015 of the Law of the Basic Statute of Public Employees.

Statistically, and although the R2 is low at 0.27, there is a relationship between the category and the percentage of women represented. The t-statistic gives us a more significant value in this case of 0.81014, although again it should be borne in mind that we are working with a small sample and that the breakdown by category is not particularly large.

Finally, Table 10 shows the combined segmentation of occupation and category in terms of gender feasibility, a classification obtained by filtering the panel data collected in Table 6. To characterize the employability of the Provincial Council accurately in terms of gender, and where the functional operational structure of the Provincial Council's jobs is a factor that limits a substantial increase in the number of women it employs, we can see the predominance of low-feasibility manual jobs.

Table 10. Characterization of Occupation vs. Job Category according to W/M feasibility

Feasibility – High		Feasibility – Medium		Feasibility – Low	
Occupancy-Categ	**No. of jobs**	**Occupancy -Categ**	**No. of jobs**	**Occupancy -Categ**	**No. of jobs**
Technicians-A2	31	Technicians-B	38	Auxiliary-D1	192
Auxiliary-C1	78	Basics-D1	41	Basic D2	101
%/High Feasibility	109 (66.9%)	%Medium Feasibility	79 (58.5%)	%/Low Feasibility	293 (89.6%)

Source: Authors' own table.

The analysis using dynamic tables[8] shows the operational-functional dependence of the distribution of jobs at the Ourense Provincial Council, which reveals that men are very overrepresented in terms of both occupation and administrative/professional category.

4 Discussion of results

The analysis of the results obtained with the First Equality Plan of the Provincial Council of Ourense, from the perspective of its workers, presents a series of factors to be considered, among which it is possible to differentiate between those that are considered achieved and those that require more decisive or effective action. This means that the achievement of Gender Equality as studied is an open question and subject to the characterization of the investigated environment, as reflected in their work, Corominas (2022) or Palumbo et al. (2022).

First of all, it is worth highlighting that the implementation and dissemination of the 1st Plan facilitated transversality and the perception of the need for a problem, giving rise to an institutional image of awareness in this respect, an institutional effect observed in practically all the Plans analyzed (Málaga University, 2013; Badajoz Provincial Council, 2019; Miguel Hernández University, 2020; Pamplona City Council, 2022). And the translation of which is manifested in aspects such as a good working environment, inclusive language, and a real commitment to reducing gender inequality.

[8] Summary in tables 8, 9 and 10.

One achievement is the implementation of highly flexible working hours in order to promote the reconciliation of work and family life, along with the scheduling of work meetings in the mornings. Other as yet unexplored solutions could be exploited, such as reducing working hours in special circumstances, providing leave adjusted to specific needs (Málaga University, 2013; Pompeu Fabra, 2018; Badajoz Provincial Council, 2019; Pamplona City Council, 2022), and identifying when teleworking is a feasible solution without reducing the quality of service, by days/week, time slots. However, this may be controversial: finding positive examples such as Pompeu Fabra (2018) or, on the contrary, teleworking is an extra effort to reconcile work and family life, Miguel Hernández University (2020).

The questions on professional selection and promotion do not seem to reveal any negative issues, concurring with Málaga University (2013), Pompeu Fabra (2018) and IdISSC (2021), the relevant regulations seem to be being followed effectively; the anonymized competitive examination system provides reassurance in this respect, highlighting the great job conformism observed.

Among the most notable deficits is the lack of effective practical training, a protocol, or guidelines for action in the event of an actual case of harassment, aggression or bullying at work, an issue also found in Málaga University (2013), Pompeu Fabra (2018), Miguel Hernández University (2020) and IdISSC (2021). An example of the work to be done is the difficulty of achieving female work-life balance, which is twenty points higher than that of men.

Finally, the high overrepresentation of men or women in certain occupations is recognized in terms of the typology of occupations in the provincial council, a fact which, in quantitative terms, prevents substantial change in terms of the number of women/men employed; this is also evident in plans closest to the type of institution Badajoz Provincial Council (2019) and Pamplona City Council (2022). The characterization of functions, especially those requiring highly mobile staff, carries great weight in the functionality of the provincial council: public works, road maintenance, land management, and environmental conservation. The higher professional scale (level A) and the administrative scale are those that show the greatest equality.

5 Conclusions and new avenues for further study

Considering the facts described above, it can be said that although in recent years women have begun to make progress in accessing male-dominated occupations, stereotypes, a lack of opportunities and references remain the reasons that it is difficult for women to enter sectors such as transportation, electricity, mechanics, or construction. Even more important are the characteristics of the professional practice of such activities, as well as the working conditions and the work environment which also influence this social behavior.

Ourense Provincial Council staff consider that staff are selected according to criteria which guarantee gender equality through an optimal working environment and daily work practice; however, they are aware of the high number of occupations previously characterized according to gender. This explains why 78% of the employees are men (high rate of overrepresentation of men), since the areas in which the provincial council employs the most staff are Infrastructure and Environment.

The reasons given are that the working conditions, especially the working hours (sometimes at night) and commuting, as well as the physical strength required in many cases, mean that women are reluctant to take up this type of work.

It is worth highlighting two factors in the more recent survey of provincial council staff: 1) even in occupations where women are overrepresented, most women who are the main carers of their dependents state that it is very difficult to reconcile work and family life; and 2) workers, both men and women, do not receive the necessary information and materials to ensure their welfare (computer exposure), despite the fact that they consider a high percentage of occupations to pose a high risk to physical and mental health.

Even though the objectives of the Equality Plans are to eliminate the situations of inequality identified in the analysis and to outline strategies which will guarantee permanent, structural changes over time, thus facilitating social development, from a quantitative point of view, substantial changes in terms of the number of women/men employees is a challenge, because the characterization of functions has a very great weight in the functionality of the provincial council.

In this sense, being unable to alter the structure of occupations substantially, the plan cannot achieve real (quantitative) gender equality; this is also demonstrated in the examples observed in similar public institutions. Both men and women produce and reproduce barriers, gaps and inequalities that make it impossible to introduce women into mostly male-dominated jobs.

In this respect and on the basis of these research, it is proposed to continue with the development of structural and subjective actions which facilitate the participation of women in all labor markets, and encompasses the problematic realities which they face.

Accordingly, it should be emphasized that beyond modifying the structure of activities and occupations carried out by a provincial council – something which would require operational changes – one issue which should be highlighted is the low number of women in management and technical positions at the Ourense Provincial Council. For this reason and in order to facilitate internal promotion of women, one option would be to study the effects of applying a fixed schedule between in-person work and teleworking, the elimination of the split day and requiring all meetings to be scheduled during the early part of the morning.

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From Tech Skills to Performance Gains: How Digital Literacy Drives Productivity Improvements in the Public Sector

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Abstract

With rapid technological advancements, developing a digitally literate workforce is imperative for public sector organizations to enhance performance. However, research linking digital literacy and employee outcomes in developing country contexts has been limited. This study investigated the relationship between digital literacy and productivity among local government employees in Nigeria. A survey was conducted with 113 employees in Ilorin West Local Government in Nigeria. PLS-SEM was used for the analysis. Digital literacy demonstrated significant positive effects on productivity. Access to ICT positively moderated the digital literacy-productivity relationship. The study makes important theoretical contributions by extending ICT adoption research to public sector contexts and revealing the performance benefits of digital literacy in the workplace. Practically, it capacitates public organizations to increase investments in structured digital skills development programs to motivate employees and unlock productivity improvements.

Keywords

digital literacy; access to ICT; employee productivity; motivation; digital skills; ICT adoption

1 Introduction

Capacity building initiatives aimed at enhancing human resources are critical for public sector organizations in developing countries to improve organizational performance and service delivery. Building the skills, competencies, and abilities of public servants enables the effective implementation of policies and programs (Hardyman et al., 2022). In Nigeria specifically, efforts at capacity building in local governments have traditionally focused on areas like

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financial management, leadership development, and project management (Igbokwe-Ibeto & Osakede, 2023). Training programs have sought to equip local government employees with essential skills for managing budgets, overseeing projects, and providing vision and direction. However, building capabilities in digital literacy has received relatively limited attention in capacity building frameworks targeting Nigerian local governments (Oyedele et al., 2017). This is despite the immense potential that digital literacy has for enhancing employee productivity, efficiency, and overall performance in the contemporary knowledge economy (Abdulkareem & Ramli, 2021a).

Developing a digitally literate workforce should be an urgent priority within the broader agenda of public sector capacity building in Nigeria, given the rapid pace of digital transformation that is underway globally. While initiatives aimed at strengthening core management and functional competencies remain important, targeted efforts aimed to improve digital literacy skills across all levels of the workforce is also of significance (Setiawan et al., 2022). This is crucial to optimize both individual employee productivity as well as overall organizational performance. With Nigeria's young demographic profile, enhancing digital competencies can catalyze innovative work practices and service delivery improvements driven by technology adoption. Equipping employees with digital problem-solving, collaboration, communication, and content creation skills can help drive productivity gains (Hasan et al., 2022). Structured training programs, on-the-job technology exposure, mentorship in digital fluency, and changes to workplace policies and culture will be needed to ingrain digital mindsets and skills. Leadership commitment and vision will be vital to drive digital literacy as a core capability development priority within a holistic public sector capacity building strategy. Focused efforts to boost digital workforce competencies will be instrumental for Nigerian local governments to leverage the potential of emerging technologies for enhanced internal efficiency, responsiveness to citizens, and local problem solving.

Digital literacy refers to the skills needed to use digital technologies and applications productively at work (van Dijk & Hacker, 2018). It goes beyond basic technical skills like using software or operating digital devices, encompassing higher-level cognitive and socio-emotional skills (van Deursen & van Dijk, 2015). These include the ability to effectively search for and process information online, critically evaluate the credibility of digital content, create original content using technology tools, apply technology in problem-solving, and use digital platforms for communication and collaboration at work. Developing such a broad set of digital competencies enables employees to fully leverage the affordances of technology to perform core job tasks more efficiently. It empowers them to take advantage of technology for enhanced communication and engagement with colleagues and clients, streamlined information search and management, development of written and multimedia content, data-driven decision making, and collaborative problem-solving through virtual platforms.

In today's knowledge economy, which is characterized by the exponential growth and proliferation of digital technologies, having a digitally literate workforce is thus imperative for boosting organizational productivity, efficiency, and competitive advantage (Abdulkareem & Ramli, 2021a). The scale and complexity of technological change underway means that workers at all levels require a broad set of digital competencies to harness the potential of new tools and data sources. Public sector organizations in particular need to rapidly build comprehensive digital skills and mindsets across all levels of the workforce in order to adapt to digital transformation trends and stay responsive to evolving citizen needs and expectations (Asah et al., 2022; Jumayev & Nazarov, 2022). Citizens increasingly expect services and information to be accessible seamlessly across digital channels (Abdulkareem & Ramli, 2021b). To meet

these demands and maintain legitimacy, public agencies must equip employees to fully leverage technologies to communicate with stakeholders, streamline processes, and deliver citizen-centric services effectively. A digitally savvy workforce is vital for public sector productivity and effectiveness at a time when technology is reshaping operations, service delivery models, and stakeholder engagement. Strategic investment in digital skills development is thus mission-critical for adaptation and sustained performance in the digital economy (Hasan et al., 2022).

Existing studies show that there has been limited integration of structured programs aimed at building digital literacy skills within broader capacity building frameworks and initiatives targeting Nigerian local governments (Chukwudi, 2015). Most training and professional development activities concentrate on improving general leadership, management, and functional/technical capabilities, without an explicit focus on developing a digitally savvy workforce (Agundu, 2008; Alao et al., 2015; Ibok, 2014). This deficiency in prioritizing digital skills development has constrained both individual employee performance, as well as overall organizational productivity, within Nigerian local governments. Employees often lack the digital competencies needed to optimally utilize technology and data in their daily work routines, which hampers efficiency and output (Abdulkareem et al., 2018).

Consequently, this study aims to empirically examine the relationship between digital literacy and productivity of local government employees in Nigeria. Specfically, this study will assess digital literacy across various dimensions including basic technical skills, information management, communication, content creation, and problem solving. More so, the study seeks to examine the relationship between digital literacy and productivity in core job responsibilities undertaken by local government workers. It aims to ascertain whether higher digital proficiency translates into improved efficiency and effectiveness in day-to-day functions. Finally, the study will explore the moderating effects of access to ICT on the relationship between digital literacy and employee productivity.

This study is designed to contribute to the scholarly understanding of how digital literacy enhances public sector capacity building outcomes, particularly in relation to employee productivity. The empirical findings will provide much-needed evidence on whether and if so how digital competency improvements translate into measurable productivity gains for public sector organizations in developing country contexts. Extant research on this topic in the public sector, especially in Africa, has been limited. The results will help addressing this knowledge gap and extending theoretical perspectives on how digital literacy drives performance improvements by individual employees and organizations as a whole.

In addition to advancing academic literature, the findings have practical utility for informing organizational development initiatives aimed at leveraging digital literacy training and skills-building to boost performance of Nigerian local governments. The conclusions can guide strategies, programs, and investments to enhance digital workforce capabilities for improved efficiency and service delivery. As digital technologies continue transforming public sector operations in the 21st century, building a digitally savvy workforce is vital for modernizing processes, enhancing responsiveness to citizen needs, facilitating data-driven decision making, and boosting productivity across an array of core governance functions. Developing actionable insights through this research will contribute towards efforts to strengthen local governments in Nigeria as capable, technology-enabled organizations for driving development at the grassroots level.

2 Literature review

2.1 Capacity building in public sector organizations

Capacity building in public sector organizations is a complex, multidimensional, and dynamic process that plays a crucial role in enhancing the overall effectiveness, efficiency, responsiveness, and service delivery capabilities of government agencies (Hardyman et al., 2022; Nurdin & Purna, 2023). This broad concept encompasses a wide range of strategies, initiatives, programs, and investments aimed at developing human resource competencies and strengthening organizational capabilities within the public sector. At its core, capacity building involves developing the knowledge, skills, and abilities of public servants to enable them to perform their duties and responsibilities at a higher level of productivity and impact. As noted by Grindle (1997); Pepinsky et al. (2017), substantial investments in training, education, and professional development of government employees are foundational to any capacity building agenda (Zia et al., 2021). Depending on the contexts and needs, this can include formal training programs to enhance specific technical, managerial, leadership, or policy implementation capabilities. On-the-job coaching, mentoring, and experiential learning approaches can also be highly effective (Mukerji & Tripathi, 2019).

However, capacity building cannot simply stop at the individual level. As emphasized by Prenestini and Lega (2013), efforts must also be directed at strengthening the broader organizational capabilities of public sector entities. This includes enhancing the institutional architecture, administrative processes and procedures, management practices, and strategic priorities that shape how these agencies function and utilize resources. Developing organizational competencies in areas like public financial management, data-driven decision making, project management, and policy implementation is key. Furthermore, as underscored by (Newman et al., 2017), capacity building requires an integrated approach spanning the individual, organizational, and institutional levels. The institutional dimension entails systemic and structural changes to the overarching governance systems, legal frameworks, policies, regulations, and bureaucratic norms that enable or constrain capacity building within public sector organizations. Ultimately, the success and sustainability of capacity building depends on addressing these interconnected dimensions holistically (Kislov et al., 2014; Sobeck & Agius, 2007).

Moreover, in today's rapidly evolving digital age, building capabilities to fully leverage technology has become an urgent priority (Eakin et al., 2011). As governments around the world undergo digital transformation, public sector organizations need to adapt by harnessing new technologies to improve service delivery, enhance transparency, facilitate participatory decision making, and drive innovation (Abdulkareem & Mohd Ramli, 2021; Escobar et al., 2023). Developing a digitally savvy workforce and modernizing systems and processes to take advantage of digital tools are essential to futureproof government agencies. Public sector organizations are no longer just bureaucratic entities (AbdulKareem et al., 2024). They are now dynamic and interactive, constantly adapting to the evolving digital landscape (Alvarenga et al., 2020; Dunleavy et al., 2006; Simmonds et al., 2021). This transformation is largely driven by advancements in technology, which have reshaped every aspect of the society, including how citizens interact with government agencies (Abdulkareem et al., 2016). As a result, public agencies must evolve and adapt to stay relevant and efficient by embracing the digital revolution and integrate it into their operations.

2.2 Digital literacy

Digital literacy is a complex, multidimensional concept encompassing a broad set of knowledge, skills, behaviors, and attitudes required to effectively perform tasks, solve problems, and interact productively in digitally-driven environments (van Deursen & van Dijk, 2009). As conceptualized by scholars like Belshaw and Higgins (2011), digital literacy refers to the ability to appropriately and responsibly use a range of digital devices, applications, and networks to access, manage, integrate, analyze, create and communicate information. It enables individuals to achieve goals and expand capabilities through technology use.

Several theoretical frameworks have been proposed to elaborate on the multidimensional components encompassed within digital literacy. For instance, Ferrari (2012) put forth an influential model outlining three key domains of digital literacy: information literacy, communication literacy, and content creation literacy. Information literacy refers to the ability to identify, locate, retrieve, store, and analyze digital information. Communication literacy involves skills for effective social digital communication, such as appropriate email etiquette. Content creation literacy entails the ability to generate original digital content using various formats and platforms.

Similarly, Calvani et al. (2009) delineated a framework highlighting four layers of digital literacy, namely: technical-procedural, cognitive, socio-emotional, and ethical. Technical-procedural literacy includes skills like operating devices, navigating interfaces, and using software tools. Cognitive literacy encompasses searching, comprehending, and critically evaluating online information. Socio-emotional literacy refers to social skills for online communication, collaboration, and interpersonal interaction. Finally, ethical literacy involves understanding ethical issues in digital environments and behaving responsibly.

Across the various theoretical models, some common themes emerge around the multidimensional components of digital literacy. These include the importance of technical functional skills to use tools and platforms effectively, cognitive capabilities to find, understand, and evaluate information, social skills to communicate and collaborate responsibly, and ethical awareness when engaging with digital technologies. Developing competence across these interrelated dimensions is vital for unlocking the full potential of technology to enhance work performance and productivity.

Developing these well-rounded digital competencies enables optimal application of tools to enhance workplace productivity and performance. For instance, higher levels of digital literacy allow employees to effectively search for information online, critically evaluate the credibility and usefulness of digital content, analyze data, create original multimedia content, and collaborate productively with remote teams using digital platforms. It empowers more efficient and impactful utilization of technology resources for core work tasks compared to basic or limited technology skills. Integrating digital literacy development within capacity building initiatives is thus vital for empowering a workforce to thrive in today's digitally-driven world.

2.3 Impact of digital literacy on productivity

A growing body of empirical research has demonstrated positive linkages between digital literacy and productivity outcomes across diverse contexts. In educational settings, studies by Miller and Bartlett (2012) and Nikolopoulou and Gialamas (2016) found that higher digital literacy among students and teachers was associated with greater academic performance and teaching effectiveness. Martin and Grudziecki (2006) studied how digital literacy affected productivity

mindsets among university students. Qualitative findings revealed students with higher digital fluency were more inclined to view technology as useful for enhancing academic productivity and displayed greater motivation for using digital tools to increase efficiency. Hatlevik et al. (2018)'s study involving teachers found that higher digital competence significantly predicted greater motivation and self-efficacy for technology use at work. Teachers who were more digitally literate displayed higher motivation to integrate ICT in their practices to improve productivity.

Within workplace environments spanning both private and public sector contexts, researchers have also established empirical connections between digital literacy and various productivity related outcomes. For instance, Falck et al. (2021) conducted an extensive study showing that increased computer and internet skills among adult learners participating in government-sponsored training programs led to higher wages, increased probability of securing employment, greater labor force participation, and other tangible economic benefits. The authors highlight how technology skills enable workers to access higher productivity jobs and work processes in the digital economy. A survey study of office workers by Van Deursen and Van Dijk (2016) showed that employees with moderate to high digital literacy reported being more task-focused, motivated and productive when utilizing digital technology compared to those with lower literacy. Proficient digital skills were linked to productive mindsets. Similarly, a study by Chetty et al. (2017), identified digital literacy as a strong predictor of improved labour market participation across OECD member countries. Statistical analyses revealed significant positive correlations between foundational technology skills among adults and higher employment rates. The report highlighted digital literacy development as a priority for empowering adults with essential workforce capabilities and driving productivity in the 21st century labour market. A study by Abdulkareem and Ramli (2021a) found strong correlation between digital literacy and e-government performance in the public sector in Nigeria.

These studies provide consistent evidence that digital literacy can catalyze motivation, confidence, and an empowered mindset to utilize technology in a focused way to enhance productivity across different workplace contexts. Developing a digitally savvy workforce is key for fostering technology adoption and utilization behaviors that drive gains in performance. However, more targeted research is needed to examine if similar returns can be realized within public sector organizations, especially in developing country contexts where digital literacy varies widely. This remains an empirical gap that the current study aims to address.

3 Conceptual framework and hypotheses formation

A conceptual framework (see Figure 1) is proposed based on the literature review and the study's context. Digital literacy is conceptualized as the independent variable influencing employee productivity, the key outcome of interest. Digital literacy is multidimensional, encompassing technical, cognitive, ethical, and social-emotional dimensions as it has been highlighted in frameworks by Ng (2012) and Calvani et al. (2009). It is measured through literacy assessment tools and questionnaires. Employee productivity serves as the dependent variable. It is operationalized through metrics like task efficiency and quantity of output relative to expectations. Access to ICT serves as the moderator for the relationship between digital literacy and employee productivity. Therefore, following hypotheses are tested:

H1: Digital literacy has a significant positive influence on employee motivation.
H2: Employee motivation significantly influences employee productivity.
H3: Digital literacy significantly inflences employee productivity.
H4: Access to ICT moderates the relationship between digital literacy and employee productivity

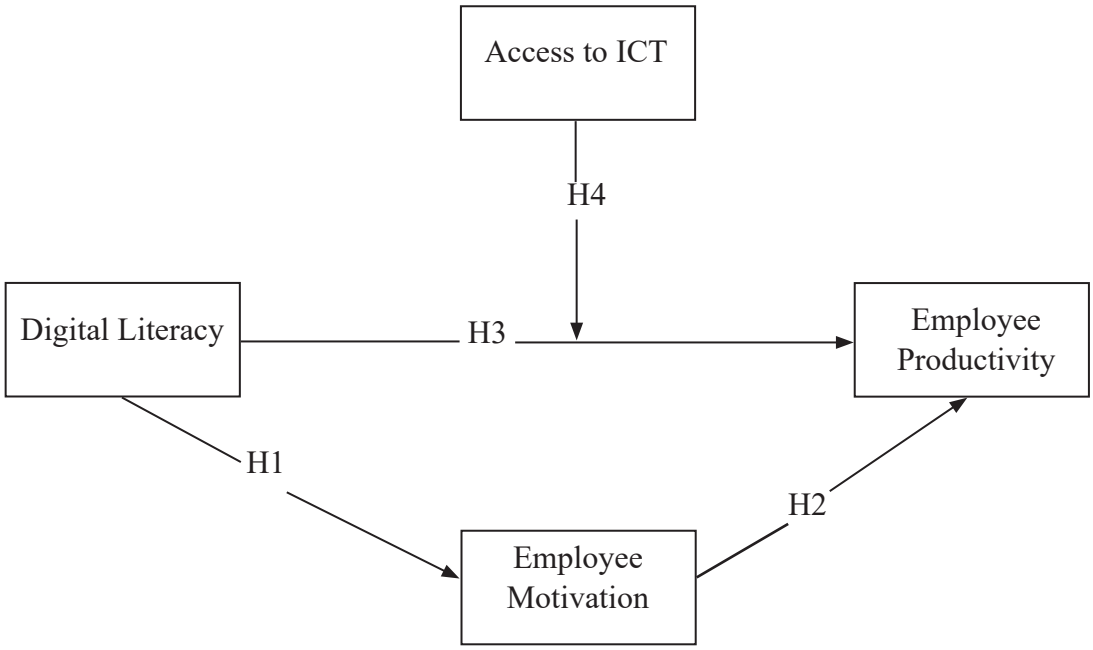
4 Model specification

The structural model was estimated using partial least squares structural equation modeling (PLS-SEM) with the following equations:

$$\text{Motivation} = \beta 0 + \beta 1 + \varepsilon 1 \quad (1)$$
$$\text{Productivity} = \beta 0 + \beta 1 + \beta 2 + \beta 3 + \varepsilon 2 \quad (2)$$

Where β0 = intercept terms, β1 = Digital literacy, β2 = Motivation, and β3= Digital_ Literacy*Access_ICT. The interaction term (Digital_Literacy*Access_ICT) captures the moderating effect of access to ICT on the digital literacy -> productivity relationship, as per H4. ε1 and ε2 represent the error terms for equations 1 and 2 respectively.

Figure 1. Conceptual model



Source: Authors' own editing

5 Methodology

This study aimed to investigate the relationship between digital literacy and employee productivity within the context of local governments in Nigeria. A quantitative, cross-sectional survey approach was determined as the most suitable methodology to examine this topic. The target population comprised staff of Ilorin West Local Government Area in Kwara State, Nigeria. This specific local government was selected through purposive sampling as

it represents a typical medium-sized local administration in the country, situated in an urban area and the state's capital. The sampling frame included all employees across departments at the headquarters of this local government. To collect data from respondents, a structured questionnaire was designed.

This questionnaire incorporated measurement scales adapted from existing validated sources to assess the key variables. For digital literacy, the study adapted the Digital Literacy Assessment instrument developed by Ng (2012). This comprehensive eighteen-item scale evaluates various dimensions of digital literacy including technical skills, cognitive abilities, social-emotional competencies, and ethical awareness. For motivation, a five-item Work Motivation Scale by Bjorklund (2016) was utilized to measure employee motivation levels. To assess employee productivity, the scale developed by Abane et al. (2022) was adapted. While for access to ICT, a three item scale was used based on Abdulkareem and Ramli (2021b).

The questionnaire was prepared in paper-based form for in-person administration. The minimum sample size required for the study was determined through a statistical power analysis conducted using G*Power software. Based on the inputs for power level, effect size, and significance level, a minimum sample of 113 respondents was recommended. Simple random sampling was then used to select the target 113 respondents from the staff from the local government. This ensured an unbiased cross-section of employees. To ascertain the validity of the questionnaire, subject matter experts reviewed the instrument to assess face and content validity. A pilot test was also carried out with 15 respondents matching the target demographic. Feedback from the pilot phase was used to refine the questionnaire. Reliability analysis on pilot data showed satisfactory Cronbach's alpha values higher than 0.7. For data analysis, partial least squares structural equation modeling (PLS-SEM) technique was utilized through SmartPLS software version 4. This enabled testing the conceptual framework and hypotheses involving the multiple relationships proposed. The marker variable approach was applied to check for common method bias. Regarding ethics, participation was purely voluntary without coercion or incentives. Anonymity of responses was maintained and no personally identifiable information was collected.

6 Analysis

6.1 Demographics

The sample consisted of 113 respondents from Ilorin West local government area. Males comprised 60.2% while females were 39.8% of respondents. In terms of age, most respondents fell between 25–35 years (40.7%) followed by 36–45 years (29.2%). Regarding education, a majority had Bachelor/HND degrees (67.3%) with only 7.1% having just primary education. For length of service, 49.6% had 21–30 years of experience. In terms of ICT proficiency, 36.3% had medium skills while 30.97% possessed high skills.

Table 1. Demographic Characteristics

	Parameters	Freq	%
Gender	Male	68	60.18
	Female	45	39.82
Age	below 25	12	10.62
	25–35	46	40.71
	36–45	33	29.20
	Above 45	22	19.47
Education	Primary	8	7.08
	Secondary	16	14.16
	Bachelor/ HND	76	67.26
	Postgraduate	13	11.50
Length of Service	Less than 10	11	9.73
	10–20	31	27.43
	21–30	56	49.56
	31–35	15	13.27
ICT Proficiency	High	35	30.97
	Medium	41	36.28
	Low	36	31.86
	No	1	0.88

Source: Authors' own editing

6.2 Measurement Model

The measurement model as shown in table 2 was examined by checking indicator loadings, composite reliability (CR), and average variance extracted (AVE). Majority of item loadings were above the 0.7 threshold confirming reliability. CR values exceeded 0.7 and AVE was higher than 0.5 for all constructs, satisfying the criteria for convergence validity. The heterotrait-monotrait ratio (HTMT) was used to assess discriminant validity. All HTMT values were below the 0.9 threshold, establishing discriminant validity. Thus, the measures for each construct were distinct from other constructs as shown in table 3.

Table 2. Table of Reliability

Constructs	Items	Loadings	Mean	SD	CA	CR	AVE
Digital Literacy	DGT1	0.685	5.941	1.064	0.814	0.812	0.556
	DGT2	0.774	5.588	1.263			
	DGT3	0.714	5.647	1.047			
	DGT4	0.722	5.706	1.169			
	DGT5	0.772	5.118	1.064			
	DGT6	0.716	5.588	0.996			
	DGT7	0.744	5.706	1.176			
	DGT8	0.732	5.412	1.169			
	DGT9	0.719	5.765	1.121			
	DGT10	0.792	5.807	1.278			
	DGT11	0.772	5.412	1.131			
	DGT12	0.718	6.059	1.054			
	DGT13	0.812	5.588	1.176			
	DGT14	0.775	5.715	1.169			
	DGT15	0.701	4.706	0.970			
	DGT16	0.770	5.824	1.064			
	DGT17	0.715	4.844	1.105			
	DGT18	0.763	5.882	1.121			
Employee Productivity	EMP1	0.775	6.176	1.074	0.785	0.779	0.592
	EMP2	0.719	5.529	0.943			
	EMP3	0.728	6.412	1.278			
	EMP4	0.825	5.824	1.074			
	EMP5	0.805	5.412	0.939			
	EMP6	0.775	6.000	1.225			
	EMP7	0.743	5.471	1.125			
Employee Motivation	EMT1	0.788	5.468	1.107	0.766	0.753	0.562
	EMT2	0.748	5.882	1.111			
	EMT3	0.746	5.588	1.176			
	EMT4	0.772	5.294	1.359			
	EMT5	0.719	5.529	1.068			
Access to ICT	ACT1	0.725	5.706	1.105	0.772	0.768	0.550
	ACT2	0.738	5.412	1.278			
	ACT3	0.733	5.824	1.015			

Source: Authors' own editing

Table 3. Discriminant Validity

	Digital Literacy	Employee Productivity	Employee Motivation	Access to ICT
Digital Literacy	0.441			
Employee Productivity	0.542	0.471		
Employee Motivation	0.539	0.426	0.339	
Access to ICT	0.468	0.598	0.532	0.496

Source: Authors' own editing

6.3 Structural model: hypothesis testing

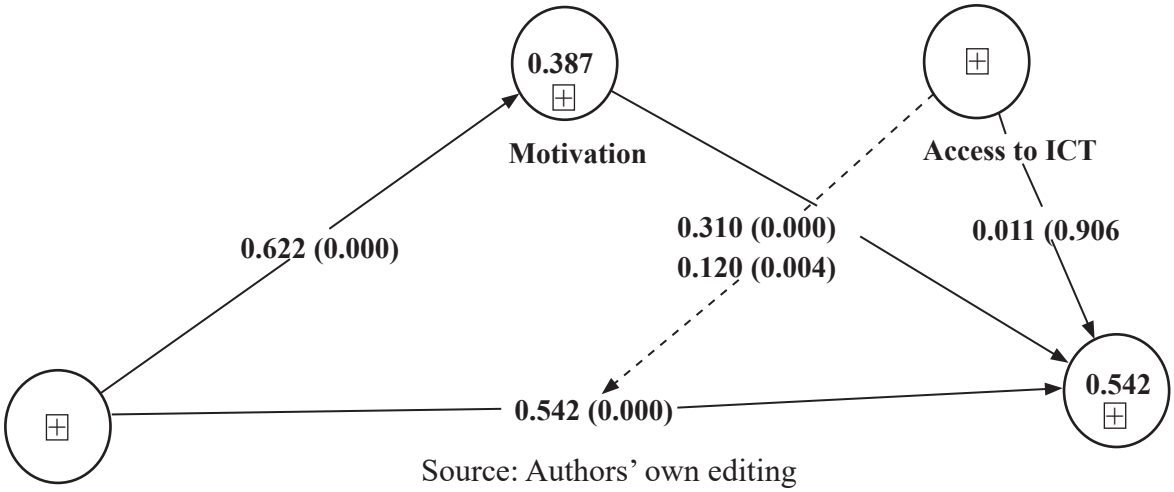
The structural model results as shown in table 4 and figure 2 provided support for the hypothesized relationships. Digital literacy had a significant positive effect on motivation (β=0.622, $p<0.001$), supporting H1. The path from digital literacy to productivity was also significant (β=0.542, $p<0.001$), confirming H2. Motivation positively impacted productivity (β=0.31, $p<0.001$) providing support for H3. The interaction term between ICT access and digital literacy in predicting productivity was significant (β=0.12, $p=0.004$). Thus, access to ICT positively moderated the relationship between digital literacy and productivity, supporting H4. Specifically, as shown in figure 2 the positive slope as coefficient indicates that the positive relationship between digital literacy and productivity gets stronger as access to ICT increases. The impact of digital literacy on employee productivity is enhanced when employees have greater access to information and communication technologies. When ICT access is low, improving digital skills may not translate into significant productivity gains. However, as ICT infrastructure, resources and awareness improve in the workplace, the benefits of higher digital literacy become more salient.

Table 4. Hypothesis testing

Hyp		B	Std Dev	T-value	P values
H1	Digital Literacy -> Motivation	0.622	0.046	13.482	0.000
H3	Digital Literacy -> Productivity	0.542	0.089	6.075	0.000
H2	Motivation -> Productivity	0.31	0.061	5.073	0.000
H4	Access to ICT x Digital Literacy -> Productivity	0.12	0.039	3.065	0.004
	Rsquare = 0.542				

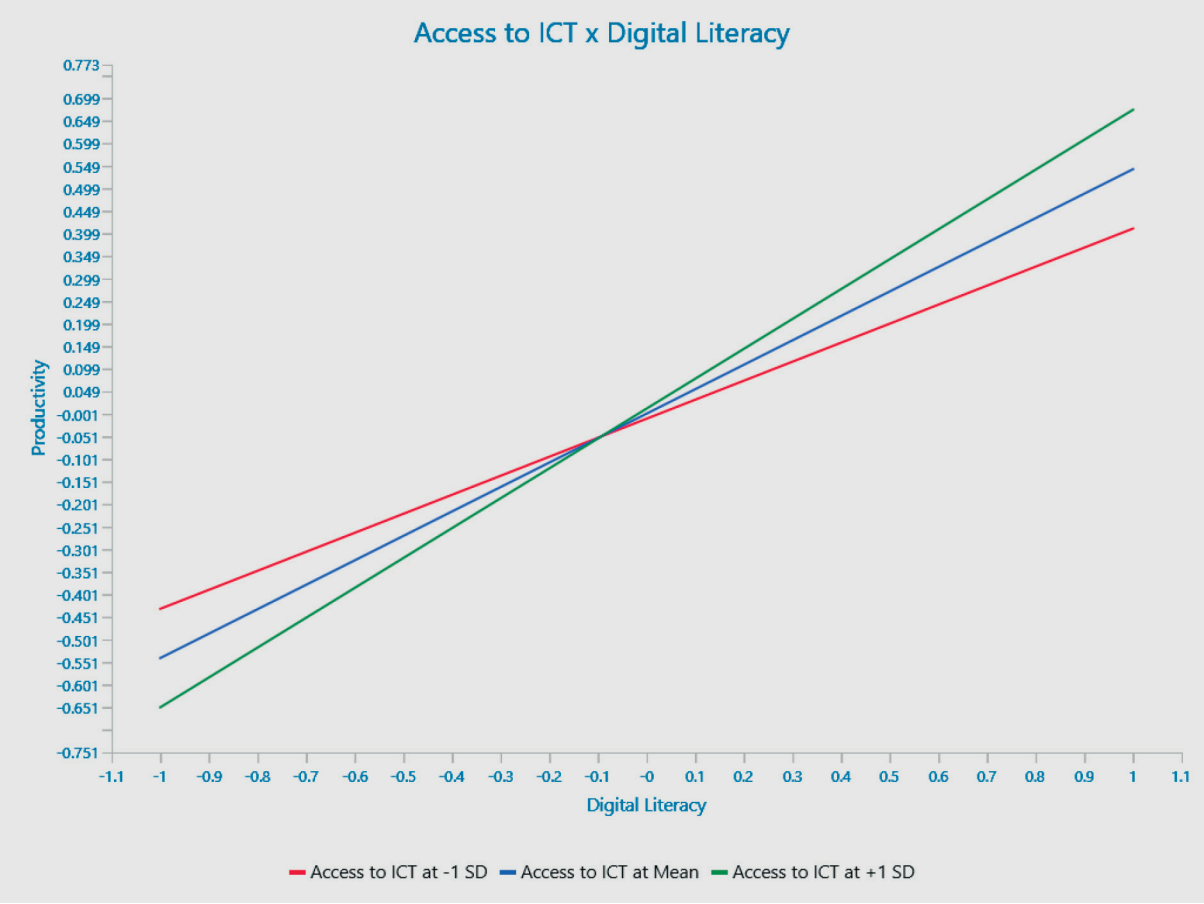
Source: Authors' own editing

Figure 2. Structural model result



Source: Authors' own editing

Figure 3. Interaction effect slope analysis



Source: Authors' own editing

7 Discussion

This study examined the relationship between digital literacy and employee productivity in the context of local governments in Nigeria. The results provide empirical support for the

significant impact of digital literacy on employee motivation and productivity. In line with expectations rooted in theory and prior research, digital literacy demonstrated a significant positive association with employee motivation levels in this study. Employees who exhibited higher competence and skill in using digital technologies productively displayed greater motivation and positivity at work. This aligns with social cognitive and self-efficacy perspectives on technology adoption, which suggest that digital fluency enhances computer self-efficacy and motivational beliefs about one's capabilities to utilize technology in effective ways (Bandura, 1989; Hatlevik et al., 2018). When employees feel confident in their abilities to deploy digital tools to accomplish tasks and goals, they develop enhanced perceptions of self-efficacy (Zou et al., 2021). In turn, this self-efficacy fuels greater enthusiasm, initiative, and intrinsic motivation to apply technology in their job roles (Dong et al., 2022). On the other hand, employees with lower digital literacy may experience anxiety and diminished motivation stemming from a lack of self-assurance. Organizations that succeed in developing a digitally literate workforce are therefore likely to benefit from the ensuing gains in employee drive, morale, and self-directed behavior. A workforce equipped with the skills to fully harness the potential of digital technologies is more motivated to actively leverage these tools to enhance work performance and productivity (Vimalkumar et al., 2021). The empirical evidence from this study lends support to these theoretical perspectives by demonstrating the positive motivational effects stemming from digital literacy development initiatives within public sector organizations.

Critically, digital literacy exhibited a strong positive relationship with employee productivity in the context of Nigerian local governments, consistent with findings from studies in other organizational settings (van Deursen & van Dijk, 2010; Martin & Grudziecki, 2006). Employees who were skilled at leveraging technology to search, evaluate, create, and communicate information in a productive manner demonstrated higher levels of efficiency and overall task performance. Specifically, digitally literate employees were able to accomplish more work within a given time period, multi-task seamlessly across different digital systems, make faster and higher quality data-driven decisions, and collaborate better with colleagues through digital channels (Chohan & Hu, 2022). Equipped with the competence to optimize modern technologies, they could work faster, accomplish more in a shorter period of time, reduce errors, and boost quality and accuracy of outputs. For instance, data analysis skills enabled performance of analytical tasks in minutes rather than hours. Content creation proficiencies allowed quick drafting of written reports, social media posts, and presentations. Employees with advanced digital literacy were able to demonstrate substantially higher productivity across a range of core job responsibilities compared to those with basic or limited technology skills. The empirical evidence from the study reaffirms conclusions from prior research while extending it to the public sector context in a developing country. Boosting digital workforce capabilities can significantly enhance organizational productivity and efficiency.

Interestingly, contrary to expectations, access to ICT resources did not exhibit a direct statistical relationship with employee productivity in this study. However, it was found to positively moderate the effects of digital literacy on productivity. Specifically, the enhancing effects of digital literacy on productivity became stronger when employees had greater access to ICT tools and infrastructure. This highlights the notion that organizations must provide the underlying technology systems and resources to complement digital skills initiatives and allow digitally adept employees to fully optimize productivity gains. While building a digitally literate workforce is crucial, the positive returns to productivity will only be realized if employees are granted adequate access to utilize their skills. Providing technology access and digital skills training must go hand-in-hand.

8 Implications

The findings from this study make contributions to theory and practice. Theoretically, the empirical evidence demonstrating a robust positive relationship between digital literacy and employee motivation provides support for key tenets of technology adoption theories such as social cognitive theory and computer self-efficacy perspectives. It highlights that developing digital fluency can enhance motivation by fostering greater technology-related self-efficacy beliefs. This expands theoretical perspectives on the motivational mechanisms underlying technology usage behaviors to public sector contexts (Lopes et al., 2023).

Also, the linkages identified between digital literacy and productivity reaffirm and expand theoretical understanding of how digital skills drive performance gains through direct competency effects as well as motivational enhancements. The results add to existing models explaining productivity improvements from technology adoption at the individual and organizational levels (AbdulKareem & Oladimeji, 2024). The insights on the role of ICT access in moderating returns also represents a theoretical contribution regarding boundary conditions for digital literacy's effects.

For practice, the findings have several important implications. Most critically, they highlight the need for public sector institutions to ramp up efforts to prioritize comprehensive digital literacy development for their workforces through training programs, on-the-job technology exposure, recruitment policies, and supportive workplace practices. The performance gains observed in terms of higher motivation, efficiency and productivity underscore that investments in enhancing digital capabilities can pay significant dividends. In rolling out such initiatives, organizations must be attentive to providing the technology infrastructure and systems to complement skills development. The moderating effects of ICT access emphasize the synergistic, reinforcing relationship between skills and technology availability. Progress on both fronts is essential for optimizing human capital and productivity returns in the digital economy.

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Investigating the Relationship Between the World Giving Index and the Donations in Lions Clubs International Foundation

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Abstract

There is much research on how to improve the provision of local public services without having to increase municipal public spending. Latest trends stress out the role of citizens and non-governmental organizations (NGOs) that can provide various public services using private funding (donations) and volunteers. This paper analyses the relationship between the World Giving Index and donation in a selected NGO, the Lions Clubs International Foundation (LCIF). We investigate whether financial donations made to international humanitarian LCIF in different countries around the world influence the World Giving Index. Main methods used are panel regression and correlation analysis on the sample of 97 countries and 116,033 donors. The results suggest that donations made to LCIF have a positive impact on the World Giving Index. We support our findings with extended theory of planned behaviour model for Slovakia based on a questionnaire with 150 respondents.

Keywords

public services; money donation; lions clubs; world giving index; theory of planned behaviour

1 Introduction

The concept of public services developed at the beginning of the 20th century was wrapped around the significant transformation of the role of the state and public administration along with a fundamental change in structure and content. The basic goals of public services at that time were to eliminate and correct the failures and negative effects of market competition and to preserve and strengthen the equilibrium of the market (Lapsánszky, 2021). More recent public administration reforms like New Public Management, good governance, etc. have focused on public service innovation which relates to several practical problems due to the specificities of the public service market as a collective good. From the point of view of innovation as an economic problem, approaches to public service provision that directly engage the citizen as a consumer

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to increase the scope of the public service and the quality of the public service as perceived through consumer satisfaction are interesting. Moreover, the literature suggests that government instruments, rooted in the traditional modernist representative democracy, do not effectively protect the common good due to the moral hazard problem, and as a solution, it proposes citizen participation (Zawadzka-Pąk, 2021). In the context of this paper, the role of citizens is twofold: 1) citizens connect and create initiatives and non-governmental organizations to better satisfy their needs for public services like healthcare, welfare, education, environment protection, etc. and 2) citizens as donors who support such NGOs providing public services. Private donations have indeed been an important source of NGOs (Tkachuk et al., 2020; Aldashev & Navarra, 2018), and in combination with voluntary work it leads to an increase in quality and efficiency in the provision of public services (Lapuente & Van de Walle, 2020; Usmani et al., 2022).

Given the importance of private donations, we therefore focus our attention on the giving experience of one of the international non-governmental organizations – Lions Clubs International Foundation (LCIF), which is the charitable arm of Lions Clubs International (LCI), the world's largest club organization with more than 1.35 million members in 210 countries and geographic areas around the world.

The purpose of this paper is to evaluate the relationship between the amount of funding received by the Lions Clubs International Foundation and the World Giving Index (WGI) and to test the assumption that there is a correlation between these indicators. In this paper we will examine two indicators of giving. The first indicator, allowing a combined view of the scale and nature of giving around the world, is compiled by the Charities Aid Foundation (CAF). The second indicator captures the amount of funding received by the Lions Clubs International Foundation.

2 Theoretical framework

No matter how selfish you think man is, it is obvious that there are some principles in his nature that give him an interest in the welfare of others, and make their happiness necessary to him, even if he gets nothing from it but the pleasure of seeing it (Smith, 1759, Part 1, Section 1, Chapter 1). Charity and giving are undoubtedly based on such principles. According to the Charities Aid Foundation, more than three in ten adults worldwide will donate money to charity in 2020. Indonesia occupies the world's number 1 spot for donating money, likely driven by religious giving (Charities Aid Foundation, 2021). The Annual Report on Philanthropy for the Year 2020, reports that charitable giving grew from three of the four sources of giving and to seven of the nine major types of recipient charitable organizations in 2020, but the experiences of individual charities may vary (Giving USA Foundation, 2021).

2.1 Charities and charitable organizations

Charity has been attributed to giving that includes not only blood donations but a wide range of products to help the underprivileged. Charity is comprised of four major activities; the development of welfare trust to reduce poverty, increasing and promoting education, promotion of religion, and promotion of such initiatives that are beneficial to society (Shaikh & McLarney, 2005). Charity organisations are struggling hard to raise funds to help the underprivileged. Over the years, the public donations are inconsistent with an overall declining trend towards charity donations (Ling, 2012). On the other hand, the need for raised funds is rising rapidly and if this problem is not tackled, it can cause trouble for the poor and needy (Sargeant et al.,

2002). Charitable organisations have some distinctive characteristics which pose challenges to the survival and growth of these organisations. Charitable organisations have an internal focus and are "organisation-centred" instead of being "customer driven" which hinders the growth of these organisations (Andreasen & Kotler, 2008). However, this has been classified as a traditional view because the realities of modern era such as tough competition, demanding customers, and lack of public trust that pose real threats to the survival and growth of charitable organisations (Padanyi & Gainer, 2004). Given the challenges faced by these organisations, an understanding of reasons to donate money is pertinent to develop a highly successful marketing strategy which can trigger charitable giving (Piferi et al., 2006).

A charitable organization or charity is an organization whose primary objectives are philanthropy and social well-being e.g., educational, religious or other activities serving the public interest or common good (Reiling, 1958; Tortia et al., 2020). For example, in the USA (as a country where LCI originated), tax-exempt organizations described in Section 501(c)(3) if the Internal Revenue Code are commonly referred to as charitable organizations. These organizations must not be organized or operated for the benefit of private interests, and no part of organization's net earnings may inure to the benefit of any private shareholder or individual, so-called non-distribution constraint (Weisbrod, 2004; Valentinov, 2008; Trasciani et al., 2023). These organizations are restricted in how much political and legislative (lobbying) activities they may conduct. Section 501(c)(3) is the portion of the US Internal Revenue Code that allows for federal tax exemption of nonprofit organizations, specifically those that are considered public charities, private foundations or private operating foundations. It is regulated and administered by the US Department of Treasury through the Internal Revenue Service (Internal Revenue Service, 2022). The legal definition of a charitable organization (and of charity) varies between countries and in some instances regions of the country. The regulation, the tax treatment, and the way in which charity law affects charitable organizations also vary.

Development aid should be provided with the main goal to improve conditions in the developing countries, decrease poverty or increase human development. But the willingness of donor countries to provide aid strongly depends on their inner political-economic circumstances, namely *per capita* income and the general satisfaction with the government (Dufková & Šálek, 2022). Therefore, various charitable organizations step in (like analysed LCI) and fund various charitable projects around the world, mostly in the developing countries, counting on private giving.

Encouraging giving, both of time and money, is the single most important challenge of most charities and causes (West, 2004). Private donations, i.e., charity giving from private individuals increases on its importance worldwide (Vaceková & Svidroňová, 2016; Shaikh & Ismail, 2019). It is also documented by the World Giving Index where we can see the increasing number of individual donors. However, comparing the year 2020, the first year to be drastically impacted by the global COVID-19 pandemic, to previous years, noticeable changes in personal giving behaviours were evident in many countries. The most noticeable change was arguably the United States, which ranked first in the world in giving for the years 2009–2018 but fell to 19th in the world in 2020 (Charities Aid Foundation, 2021).

In order to generate private funding, organisations need to understand the intentions and behaviour of donors (Ling, 2012). By understanding donor behaviour, charitable organizations can earn certain marketing advantages such as service innovation and design, reputation equity, and an increased level of donor satisfaction (Modi, 2012).

When making their decisions on donating, every individual is influenced by a given complicated structure of motivation dispositions, which are partly inborn and partly acquired. (Hladká

& Hyánek, 2015). One of the explanatory theories is, for example extended theory of planned behaviour model. The 'Theory of Planned Behaviour' (TPB) (Ajzen, 1991) has been used extensively across academic disciplines over the last 25 years as an important tool for understanding and predicting human behaviour (Armitage & Conner, 2001).

The TPB model firstly presented by Ajzen (1985) who advocated the idea that attitude (target behaviour and its evaluation), norms (perceived social pressures to perform with a certain behaviour), and perceived behavioural control (PBC) influence behavioural intentions, which in turn leads to a particular behaviour. At a later stage, to enhance the predictive power of TPB, Ajzen (1991) proposed an extended model by incorporating the effect of moral norms, descriptive norms, and past behaviour to predict behavioural intentions, which ultimately leads to actual behaviour. In other words, based on the Theory of Planned Behaviour, knowledge must be transformed to perception, the perception to the attitude, and the attitude to the behaviour (Toleikienė et al., 2020). This clearly indicates that behaviour and intentions are a function of a combination of factors: personal, social, and psychological. The marketers of philanthropic services have employed the TPB model extensively; however, the investigation based on the extended model is scarce (Knowles et al., 2012; Smith & McSweeney, 2007).

Depending on the individual and the situation; 'Attitude', 'Subjective Norm' and 'Perceived Control' might have different effects on behavioural intention (Miller, 2017). A meta-review has identified that empirically, the Theory of Planned Behaviour generally explains about 40% to 60% of the variance in intention (Sutton 1998; Fishbein & Ajzen 2010), but the percentage of variance in actual behaviour that appears to be predicted by intention is generally lower, varying between 30% and 40% (Fishbein & Ajzen, 2010). This is also commonly referred to as the 'behaviour-intention gap' (Sheeran, 2002).

The role of past behaviour in the TPB has attracted considerable attention. It has been argued that, with repeated performance, many behaviours are determined by one's past behaviour rather than by cognitions such as those described in the TPB model (Sutton, 1998). Several studies have supported the argument that past behaviour is a predictor of unique variance in intentions and behaviour (e.g., Conner & Armitage, 1998; Conner et al., 1999; Norman & Smith, 1995). Numerous researchers have found that past behaviour is the best predictor of future behaviour (Conner et al., 2002), and some researchers have argued that past behaviour is a stronger predictor of behaviour than attitudes or perceived behavioural control (Bozionelos & Bennett, 1999). In relation to pro-social behaviours such as donating blood, time or money, research has found that past behaviour is one of the most important predictors (Lee et al., 1999).

Our research focuses on a selected foundation established by the LCI organisation with a large membership base. Donations are thus largely influenced by the strategies given by the LCI. In this paper we also monitor whether LCI members donate in order to demonstrate their attitudes, moral and descriptive norms by donating to LCIF as anticipated in the extended model of the Theory of Planned Behaviour.

2.2 Charity organisation Lions Clubs International Foundation

Our study focuses specifically on financial donations made to Lions Clubs International Foundation. LCIF is a 501(c)(3) tax-exempt public charitable organization based in Oak Brook, Illinois state, USA. LCIF has been the official charitable organization of Lions Clubs International since its inception in 1968. It supports various projects in four focus areas – restoring sight, providing disaster relief, serving youth, and addressing other humanitarian needs. LCIF receives donations from Lions Clubs' members around the world (worldwide

1,345,425 members as of 6/31/2020), totalling approximately US$47 million in the fiscal year 2019–2020. Contributions made to LCIF are used for charitable projects around the world, so in this sense, these donations are made for the global common good, rather than for local benefit. By studying giving to LCIF, a specific well-defined purpose that is consistent for all Lions Clubs members across countries, the institutional context is the same for all members.

LCIF declares: Our mission is to empower Lions Clubs, volunteers, and partners to improve health and well-being, strengthen communities, and support those in need through humanitarian services and grants that impact lives globally, and encourage peace and international understanding (LCIF, 2022a). Donations given to the LCIF go to the Disaster Relief Fund or to a fund to enhance services in the form of grants and programs conducted by Lions Clubs to those in need of their assistance.

LCIF offers wide variety of grants (Childhood Cancer Grants, Diabetes Grants, Disaster Relief: Emergency Grants, Disaster Relief: Preparedness Grants, Disaster Relief: Community Recovery Grants, Disaster Relief: Major Catastrophe Grants, District and Club Community Impact Grants, Hunger Grants, Leo Service Grants, Lions Quest: Program Grants, Lions Quest: Promotional Grants, Lions Quest: Community Partnership Grants, Matching Grants addressing critical human and social needs and Sight First Grants) and resources for Lions Clubs, districts or multiple districts to help Lions serve their local communities and the world (LCIF, 2022b).

To secure funding for its activities, LCI invites its members and supporters to become donors. The largest capital fundraising campaign in Foundation history launched in July 2017 with a goal to raise US$300 million by June 2022 known as *Campaign 100*'s. Between July 2017 launch and June 30, 2019, fundraising had reached nearly $111 million. Fiscal year 2019–2020 added $47,004,138, taking fundraising to a total of $157,907,876 as of June 30, 2020. The goal was achieved with $193 million. As of 1 April 2022, lions achieved $275,885,459 which is 92% of the $300 million goal (LCIF, 2022c).

The Lions Clubs International Foundation is an ideal case for examining the purpose of our study because of its international presence as a fundraising organization. This allows us to examine the relationship between the amount of funding received by the LCIF and the CAF World Giving Index.

3 Research methodology

This paper aims to analyse the relationship between the amount of funding received by LCIF and the internationally recognized World Giving Index.

This study uses multiple data sources. The methodological basis consisted of an analysis of the literature and documents on the WGI index, as well as data from the LCI database. Correlation and regression analysis were used to process the quantitative data of the surveyed organization as well as the World Giving Index. Panel regression analysis was performed to find the relationship between the amount of funding received by LCIF and the internationally recognized giving index.

In this study, we hypothesize that there is a relationship between the amount of funding received by LCIF and an internationally recognized giving index. This methodology was chosen based on several studies that examined the relationships between different indicators and indices. For example, Meričková et al (2017) analysed the relationship between the size and structure of public expenditure and socio-economic development, Stryzhak (2020) assessed the relationship between the quality of the institutional environment and the level of human

development index by correlation analysis, Beslerová and Dzuričková (2014) examined the relationship between the Human Development Index, the Legatum Prosperity Index, the level of economic development and unemployment. Nurjanah et al. (2021) also use a quantitative approach in their study to test the correlation between the World Giving Index and GDP using Spearman's rank correlation test.

As part of the study, we work with the World Giving Index. The CAF World Giving Index is based on data from Gallup's World View World Poll, an ongoing research project that was carried out in 114 countries in 2020. Together those countries represent more than 90% of the world's population. In all, more than 121,000 people were interviewed by Gallup in 2020. Samples are probability-based and were carried out entirely by telephone due to the coronavirus pandemic.

Charities Aid Foundation (CAF) is a UK-registered international charity that published the first CAF World Giving Index was published in the wake of the global financial crisis in 2010. This report provides insight into the scope and nature of giving around the world and looks at three aspects of giving behaviour. The questions that lie at the heart of the report are: Have you done any of the following in the past month? (a) Helped a stranger, or someone you didn't know who needed help? (b) Donated money to a charity? (c) Volunteered your time to an organization?

To establish a rounded measure of giving behaviour across the world, the CAF World Giving Index relies on a simple averaging of the responses from the three key questions asked in each country. Each country is given a percentage score, and countries are ranked based on these scores. In most countries surveyed, 1,000 questionnaires are completed by a representative sample of individuals living across the country (Charities Aid Foundation, 2021).

We used the World Giving Index as a measure of willingness to help by donating funds. Compared to the WGI (global), the WGI (donating money) considers not only the willingness to give donations but also the willingness to help others (helping a stranger) and spend time (volunteering time).

To examine the interdependence, we chose the LCI indicator of the surveyed organization, which reflects the amount of funding received by LCIF, and the World Giving Index (WGI) indicator. *Table 1* lists the variables used.

Table 1. Variables used in descriptive, correlation and regression analysis

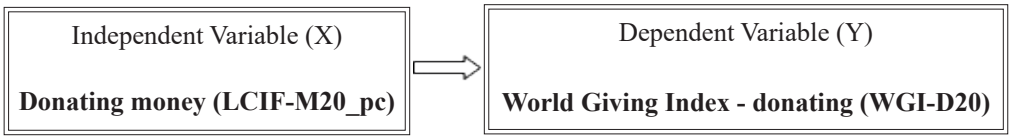
Variable	Description
WGI-D20	World Giving Index (donating money) for 2020
LCIF-M20_pc	The volume of funding received by LCIF / for 2020 / *per capita*

Source: WGI (2020), LCIF (2020)

In this study, we examine whether the variables are dependent and, if so, the strength of this dependence. For this investigation, the pairwise correlation coefficient is the most appropriate.

Presented model includes and tests the variable LCIF-M20_pc, which we hypothesize to influence WGI-D20. Causal models typically use correlation analysis to determine the strength of the correlation between variables. The data analysis uses a linear regression equation, and we estimated its parameters using the Statistical Program for Social Science (SPSS, version 28.0) program. The causal model analysis in this study uses a simple paradigm in which there are only two variables, as shown in *Figure 1*.

Figure 1. Research Model



Source: Authors' own compilation

This study analyses a selected year of 2020 on WGI-D20 a LCFI-M20_pc data objects, respectively, for all available countries in the world (N=97) with 116,033 donors in total. Secondary data comes from a report by the Charity Aid Foundation and the international organisation LCI monitored. We used the published World Giving Index data published in the CAF World Giving Index 2021, A global pandemic special report (CAF, 2021). Variable LCIF-M20_pc, which represents the amount of funding received by LCIF *per capita* in a given country is the "Total Donations" figure from the LCIF Donations Drilldown Report tracked by LCI for the year 2020. We used the significance level of 0.05 to test the significance of the regression coefficient.

Our research is specific in that it focuses on a selected LCI organization with a large membership base. Thus, member's giving has an impact on giving as measured by WGI. Donor giving is largely influenced by the strategies given by LCI, e.g., *Campaign 100*, which motivates LCI members to donate. *Campaign 100* might point out to the effects of the extended model of the Theory of Planned Behaviour. We tested the assumption whether the Slovak members demonstrate their attitudes, moral and descriptive norms by donating to LCIF using an on-line questionnaire. When data (especially any data concerning human behaviour) are collected indirectly, it is of the utmost importance to operationalize the examined phenomena in a suitable manner. In interpreting the outcomes generated from the research, the way how questions were worded and understood (validity of a question) was important. Several differently worded questions could refer to one motive. The outcomes document that findings related to one motive could be different (sometimes even opposite), depending on the wording of a question (Hladká & Hyánek, 2015). Therefore, we tested a pilot questionnaire on 50 respondents to precise the wording of the questions.

The questionnaire was anonymous and the request for completion was sent to a total of 781 e-mail addresses, which were exported from the secure web portal *mylci.lionsclubs.org* from May 2022. The SMTP Klerk server for sending bulk mail was used to distribute the questionnaire, the deliverability was 99.21%. The survey was conducted in the period August–October 2023. Response rate was 20.6% (150 respondents). The sample set is representative in terms of gender (p-value = 0.653) and age category (p-value = 1). We evaluated the correlations between the collected data using the Spearman correlation coefficient.

4 Results

Through its global structure, LCI's international service organization members provide alternative access to services in a variety of areas (Vision, Childhood cancer, Diabetes), provide disaster relief, address humanitarian needs, and assist youth. Financial resources are needed to implement services. For this reason, LCIF provides fundraising to enable Lions to strengthen the ministry around the world. LCI is increasing the impact of service in the areas of vision, youth development, disaster relief and humanitarian efforts, supporting the fight against the

global diabetes epidemic, and creating greater progress in the areas of childhood cancer, hunger and the environment. By providing services, they help address the needs of communities thereby contributing to an improved quality of life. In this context, the results of an empirical investigation of the interdependencies between the amount of financial contributions received by the Lions Clubs International Foundation and the CAF World Giving Index for 2020, we observe a linear relationship between them. *Table 2* shows the means and standard deviations of the WGI-D20 and LCIF-M20_pc variables for all countries under study.

Table 2. Descriptive statistics for WGI-D20 and LCIF-M20_pc values

		WGI-D20	LCIF-M20_pc
N	*Valid*	97	124
	Missing	27	0
Mean		30.25	13.55
S.E. Mean		1.43	4.77
Mode		25.00	.00
Std. Dev		14.08	53.08
Variance		198.38	2817.09
Kurtosis		.99	82.83
S.E. Kurt		.49	.43
Skewness		.79	8.51
S.E. Skew		.24	.22
Range		80.00	544.39
Minimum		3.00	.00
Maximum		83.00	544.39
Sum		2934.00	1680.76
Percentiles	50 (Median)	28	1.125880172469

Source: IBM SPSS output 2023, Charities Aid Foundation (2021), LCIF (2020)

The results of using correlation and regression analysis are shown in *Tables 3* and *4* for the dependent variable World Giving Index – donating (Y). Correlation is a measure of the relationship between the variables under study. Based on Pearson's correlation coefficient, which we can conclude that there is a linear direct relationship between the variables of the study.

Table 3. Pearson's Correlations between WGI-D20 and LCIF-M20_pc

		WGI-D20	*LCIF-M20_pc*
WGI-D20	*Pearson Correlation*	1.00	.21
	Sig. (2-tailed)		.038
	N	97	97
LCIF-M20_pc	*Pearson Correlation*	.21	1.00
	Sig. (2-tailed)	.038	
	N	97	124

Source: IBM SPSS output 2023, Charities Aid Foundation (2021), LCIF (2020)

Table 4. Result of the regression analysis for the dependent variable WGI-D20

	Unstandardized Coefficients		*Standardized Coefficients*		
	B	*Std. Error*	*Beta*	*t*	*Sig.*
(Constant)	29.57	1.44	.00	20.50	.000
LCIF-M20_pc	.05	.02	.21	2.11	.038

Source: IBM SPSS output 2023, Charities Aid Foundation (2021), LCIF (2020)

From the results of using the regression model, it is evident that the value of the World Giving Index in 2020 was positively correlated with the amount of *per capita* financial contributions received by the Lions Clubs International Foundation. If the *per capita* volume of financial donations increased by one dollar, then the WGDI-D20 value increased by 0.05, with the WGI being a value that ranges from 3 to 83. The value of the correlation coefficient (0.21) indicates that whenever the *per capita* volume of financial flows (LCIF-M20_pc) increases, then the value of the World Giving Index (WGI) also increases.

For comparison, the Spearman rank correlation results show that there is no relationship or correlation between the WGI and GDP of a country. The two variables are separated or do not significantly correlate. This fact shows that the level of national income of a country does not correlate with the level of donations of the population in that country.

To follow up, we analysed the effects of the extended model of the Theory of Planned Behaviour in the condition of the Slovak Republic. Using the Spearman correlation, we tested the assumption of whether the Slovak members of LCI demonstrate their attitudes, moral and descriptive norms by donating to LCIF. The results are presented in *Table 5*.

Table 5. The influence of the self-evaluation of the activity of the member of the organization in selected areas

Monitored area	p-value	R	Dependence	N
Donation of funds	< 0.000	0.497	weak correlation	120
Area of club activity				
vision, preventing preventable blindness, improving the quality of life of the blind and visually impaired	0.013	-0.208	weak negative correlation	142
the opportunity to meet friends and participate in events	0.005	0.232	weak correlation	142

Source: Authors' own research

It is clear from the table that the degree of self-evaluation of the organization member's own activity has an impact on the donation of funds. It means that the higher the perception of the organization member's activity in self-evaluation, the more regular the donation of funds other than membership fees. Thus, the attitudes towards donations are influenced by the level of a member's activity. In the questionnaire, more than half of the respondents (52.4%) indicated that their donations were influenced by *Campaign 100*.

The results of the analysis further demonstrated that the degree of self-evaluation of the organization member's own activity has the opposite effect on the club's field of activity, which is vision, prevention of blindness, improvement of the quality of life of the blind and visually impaired. This means that the more active a member of the club considers himself to be, the more important he perceives the field of vision, the prevention of preventable blindness, and the improvement of the quality of life of the blind and visually impaired. Here again, the internal attitudes of individuals are demonstrated, as they choose which area within the organization, they want to be active in, and which of the services provided they consider to be the most important.

Furthermore, the degree of self-evaluation of the organization member's own activity has an impact on the support or facilitation of club activities with the possibility of meeting friends and participating in events. Moral and social norms are manifested in this area: the collective influences the individual to behave in a certain desired way. Social norms refer to an individual's beliefs about the common or accepted behaviours within a group (Everett et al., 2015). The individual wants to belong to the group and fulfils the expected moral norms. An example of a moral norm is the statement, "9 out of 10 people already pay their taxes on time". (Muthová et al., 2022). In our case, 48% of respondents stated that they decided to donate in *Campaign 100* because their peers and friends in the organization had done so.

The age factor indicates findings that the regularity of donating funds, apart from membership fees, increases with increasing age, while one in five respondents chose the option "I don't want to comment". 40.8% of respondents contribute regularly or occasionally, while 59.2% of respondents said that they do not contribute financially, apart from membership fees.

5 Discussion

Since the analysis regarding the influence of club organization on the level of donation has not been processed according to our knowledge, it is not possible to discuss the findings with the conclusions of other research studies. We can cite the authors' brief results that inspired us to take such an approach to analysis.

Beslerová and Dzuričková (2014) focused on investigating the relationship between the Human Development Index (HDI) and the Legatum Prosperity Index (LPI). They conducted the research on a sample of EU countries, of which they mainly focused on the V4 countries. The main goal was to compare the differences of the selected indices and point out the most significant indicators that influence the results. The main conclusion of their research was the finding that we can observe differences between the indices. This is mainly due to differences in the indicators used, as the LPI contains more indicators and thus reflects a wider spectrum of information and aspects.

The shortcoming of the HDI index lies in the fact that it does not sufficiently cover several dimensions of human development – e.g., poverty and equity of income distribution, gender equality, housing, access to public services or markets, human and political rights, personal security, etc.

Meričková et al. (2017) analysed the relationship between the amount and structure of public expenditures and the Human Development Index (HDI) and found that the total amount of public expenditures does not have a significant impact on socio-economic development. However, public spending in the "productive" sectors of public services (especially education, health and social services) has the potential to have a positive impact on socio-economic

development. They were based on the methodology of the study "Public sector efficiency: evidence for new EU member states and emerging markets" (Afonso et al., 2006), but they modified their approach by changing the gross domestic product (GDP) indicator to the human development index (HDI).

Stryzhak (2020) used a correlation analysis to assess the relationship between the quality of the institutional environment and the level of the human development index. The results of the correlation analysis show that there is a strong direct link between the quality of the institutional environment and the HDI. The correlation ranges from significant to very strong. This gives the basis for the conclusion that the quality of the institutional environment has an impact on the level of human development.

Nurjanah et al. (2021) used a quantitative correlation approach to know the relationship between the World Giving Index (WGI) and a country's Gross Domestic Product (GDP). The results of the Spearman rank correlation test show no correlation between WGI and GDP. This research is still minimal, and according to the authors, further and comprehensive research is needed with the relationship and impact of Indonesia's national income on the level of donation. Based on this research, we see that Indonesian people have a great potential to give gifts, even though Indonesia is a lower middle-income country.

Jones and Posnett (1991) revealed that an increase in donation behaviour (in the sense of giving funds) is not consistent with an increase in household income. On the other hand, there is a significant positive relationship between a person's income and donation level (Mohd Arshad, 2016). Both mentioned types of research were conducted by testing at the micro level.

Pharoah and Tanner (1997) explain that people who consider religion in their lives tend to give more. This study uses a quantitative approach to test the correlation between the World Generosity-Giving Index (WGI) and Gross Domestic Product (GDP) using Spearman's rank correlation test. The authors found that there is no correlation between high income and the desire to give.

Our analysis identified certain relationships regarding the level of donations to the international organization LCIF and the WGI index. It points to the deeper mission of the organization, the clubs and their activities, although the clubs operate locally, but thanks to a wide membership base around the world, they also have global influence.

Regarding the TPB application in the Slovak condition, we can conclude that members' activity and their age influence the level of money donation (other funding than membership fees). Members' own activity has an impact on the support or facilitation of club activities with the possibility of meeting friends and participating in events, i.e. moral and social norms are manifested as defined by Ajzen (1991) or Everett et al. (2015). Hladká and Hyánek (2015) who analysed motives that can influence decisions to donate to a non-profit organisation in the Czech Republic, also showed that on average, a donation was made most often by the respondents who identified with among others the motive of social rules. And the respondents who did not identify with the motive of moral duty showed the lowest frequency of donating.

The analysis of TPB in Slovakia showed that gender has no effect on donating financial contributions. In contrast, Kou et al. (2014) investigated how women influence charitable giving in the international organization we monitored. Data were collected from a survey of Lions Club members in 14 countries to assess the impact of micro- and macro-level factors on charitable giving. The results suggest that belonging to a club where at least half of the members are women and where there is an increase in the percentage of female membership in the respondent's country is associated with a higher likelihood of donating, as well as more donating to the LCI organization.

6 Conclusion

The purpose of this paper was to analyse the correlations between the amount of *per capita* donations received by the Lions Clubs International Foundation and the internationally recognized World Giving Index. Mathematical-statistical methods were mainly used, especially correlation and regression analysis. The study provided information that the internationally recognized WGI 'Giving' sub-index is influenced by the amount of *per capita* financial contributions received by the Lions Clubs International Foundation. Regression analysis of the data reveals that the surveyed organization's fundraising activities received by LCIF are positively associated with the 'Giving' sub-index of the WGI. This might imply that there are more private donations in the funding of public services which eventually turns out decrease of public spending. Moreover, non-governmental organizations improve the provision of local public services by bringing in various innovations.

Non-governmental organizations that have a character of a club organization like LCI are usually founded exclusively for the implementation of their own activities and the achievement of mutually beneficial goals. On the other hand, one must be aware of the "fragility" of this definition, because if the mentioned organization organizes an activity for the benefit of the public, then it certainly also performs a public benefit activity. If an organization has 10,000 members to whom it provides a certain service, it is questionable whether it is still a matter of mutual benefit with such a large membership base. As for the LCI organization, we have demonstrated that club members not only serve local communities but are also united by a higher mission. And if we look at the issue from a global point of view, we are talking about hundreds of thousands of members, i.e., even if they only provided services within their communities, with such a number we can already say that it is a public or generally beneficial interest. Correlation analysis showed that members' activities really have a global impact on the development of the world index in the field of giving.

Testing the Theory of Planned Behaviour in Slovak LCI pointed out several findings which can be of use to practitioners. First, the higher the perception of the organization member's activity in self-evaluation, the more regular the donation of funds other than membership fees, i.e., the attitudes towards donations are influenced by the level of a member's activity. This implies that NGOs (not only Lions Clubs) should try to keep the members as active as possible. Moreover, the moral and social norms of the TPB are manifested in members' activity: the collective influences the individual to behave in a certain desired way, e.g. donating funds. Secondly, the regularity of donating funds increases with increasing age, so the NGOs should strive to retain the members within the organization for long periods of time. The analysis showed that gender has no effect on donating money.

The study focused on examining the interdependencies of indicators for a single year only (2020), which can be seen as a limitation of this study. Further research can be carried out on a larger scale (data for at least 5 years) to obtain more general conclusions. Another area of research is tracking LCI members' motives for donating with respect to the extended theory of planned behaviour model internationally, not only for Slovakia.

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The Conventional Definition of Genocide

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Abstract

This work comprehensively analyzes the legal definition of genocide. In so doing, it details the material and mental conditions that can lead to an individual's punishment for the commission of the crime of genocide. Further, it addresses some of the difficulties that have arisen when interpreting and applying the legal rule. To this end, this work starts by presenting the basic structure of the crime of genocide, and also the goals of its legal prohibition. It then concentrates on the material element (*actus reus*) of genocide, placing emphasis on two difficulties; namely, the notion of the group, and how to identify the four protected groups. In addition, the conduct prohibited by the Convention is detailed. This work then focuses on the mental element (*mens rea*) of the crime, examining each term from the Convention's formulation separately in order to better assess the concept of specific intent. This work then considers the meaning of article 30 from the ICC Statute. Ultimately, this work details the conventional definition of genocide and reveals some of the main interpretative challenges associated with it.

Keywords

crime of genocide, Genocide Convention, international criminal law, legal theory

Introduction

Anyone interested in finding an answer to the question "what is genocide?" will not be left wanting for responses. The variety of definitions and concomitant approaches to the query underscore not only an abiding concern with the subject matter and its grim history, but also the perceived deficiencies of the prohibition as formulated in international law (see Straus, 2001). The following eschews alternative accounts, and instead comprehensively analyzes the legal definition of genocide. In so doing, it details the material and mental conditions that can lead to an individual's punishment for the commission of the crime of genocide. Further, it identifies some of the main difficulties that have arisen when interpreting and applying the legal rule.

Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide[1] (the Genocide Convention or the Convention) sits at the center of analysis. This instrument was adopted by the United Nations General Assembly on 9 December 1948 and entered into force on 12 January 1951. Even a cursory reading of article II reveals that at least

[1] Convention on the Prevention, and Punishment of Genocide, Doc. No. 78 U.N.T.S. 277, adopted December 9, 1948; entered into force January 12, 1951.

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some of its terms call for clarification. Those of particular concern below include the definition of groups generally, the identification of the four protected groups, as well as the meaning of genocidal intent. Interpretative solutions to these come from four main sources besides the Convention: (1) case law—most notably judgments from the International Criminal Tribunals for Rwanda (ICTR) and for the Former Yugoslavia (ICTY); (2) the International Criminal Court Statute (ICC Statute or Rome Statute) and its Elements of Crimes; (3) the *travaux préparatoires* of the Convention; and, (4) legal scholarship on the subject of genocide.

This work is organized in the following way. Section 1 presents the basic structure of the crime of genocide, and also the goals of its legal prohibition. Section 2 concentrates on the material element (*actus reus*) of genocide. Here, much emphasis is placed on two of the difficulties noted above; namely, the notion of the group, and how to identify the four protected groups. In addition, the conduct prohibited by the Convention is detailed. Section 3 focuses on the mental element (*mens rea*) of the crime. This section handles each term from the Convention's formulation separately in order to better assess the concept of specific intent. In addition, the section considers the meaning of article 30 from the ICC Statute. Section 4 concludes this work.

1 Definition, Structure, and Goals

1.1 Definition of the Crime

Article II of the Convention provides the authoritative formulation of the crime of genocide. It is also the original one in international law.[2] It was later reproduced verbatim in the statutes of the International Criminal Court at article 6, the International Criminal Tribunal for Rwanda (ICTR) at article 2(2), as well as the International Criminal Tribunal for the Former Yugoslavia (ICTY) at article 4(2). In addition, the prohibition is a part of general customary international law and recognized as part of *jus cogens* (Boas et al., 2008, 143–150).[3] Article II reads as follows:

> Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> (a) Killing members of the group;
> (b) Causing serious bodily or mental harm to members of the group;
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
> (d) Imposing measures intended to prevent births within the group;
> (e) Forcibly transferring children of the group to another group.

[2] As stated in the Report of International Law Commission (1996): "The definition of genocide contained in article II of the Convention … is widely accepted and generally recognized as the authoritative definition of the crime"; Werle, 2005, 190

[3] A brief reminder: (1) International customary law binds all states "except for those that have consistently and openly objected to the formation of a rule from its inception"; (2) *jus cogens* are peremptory norms of international law; no derogation from them is allowed. They "generally comprise fundamental human rights and rules of international humanitarian law, as well as the prohibition of the use of unlawful armed force." Bantekas & Nash, 2003, 3.

1.2 Structure of the Crime

A standard distinction between the mental (*mens rea*) and material elements (*actus reus*) of the crime of genocide appears in the above definition (Report of ILC, 1996, 44, para.4.). As a brief refresher of the meaning of these elements is "*actus reus* stands for the wrongful act, and *mens rea* for the criteria of attribution" (Fletcher, 1998, 84). Both of these are necessary for ascriptions of criminal liability.[4] They describe not only what a perpetrator did or caused, but also his or her criminal intent or fault in doing or causing them (Ashworth, 2009, 84). Notice that article II defines conditions under which a principal offender may be held criminally liable for genocide (Schabas, 2009, 176).[5]

A concise restatement of the definition can help to elucidate the preceding: the enumerated acts are punishable as genocide when performed with the intent to destroy in whole or in part a protected group. This captures the basic structure of the crime of genocide, as it underscores the coupling of specific kinds of conduct with a specific form of intent. However, an important point should be made at the outset. Article II does not require that prohibited conduct be part of an overall campaign of organized violence, or adhere to a policy of such (Cassese, 2008, 140–141). This absence is noteworthy because genocide, such as in Rwanda in 1994 and in the Former Yugoslavia in the 1990s, seems practically to necessitate such a plan or organization for its fulfillment. In this respect at least, the substantive formulation goes against not just an intuition that genocide requires collective activity (except in less probable "lone-gunman" scenarios), but also the history of genocidal events.

In the assessment of Antonio Cassese, the coordinated efforts of many persons to achieve a genocidal outcome remain important matters of fact (Cassese, 2008, 140–41). However, they are not provided for or (strictly speaking) required as evidence for the prosecution and punishment of an individual for the crime of genocide. The absence of this in the definition of genocide contrasts with the prohibition of crimes against humanity, where "the context of widespread and systematic attack against any civilian population" explicitly features in the material element. [Rome Statute of the International Criminal Court, 1998, article 7(1)]. In this sense, a person who kills or tortures members of a protected group with genocidal intent, but without a context of organized violence, could potentially meet the requirements of the legal prohibition.[6] Still, prohibited acts such as imposing measures intended to prevent births within a protected group are effectively inconceivable without coordination and planning (Cassese, 2008, 141).[7] As discussed at greater length in Section 3, contexts of systematic and organized violence do figure into assessments of individual guilt; namely, as evidence of a perpetrator's

[4] They are parts of a three-pronged test under international law: (1) Whether the suspect fulfilled the material elements of the crime; (2) committing conduct with "intent and knowledge" (i.e. the mental element); (3) whether excluding circumstances (excuses and justifications) were present (Werle, 2005, 95). In this work, I assume that no excluding conditions are present, and neither detail nor address them.

[5] Article III of the Convention criminalizes other types of contribution (e.g. complicity and conspiracy); this work focuses only on the crime of genocide and the constitutive conditions of guilt of the principal offender for it.

[6] Commentators such as Claus Kress hold that "the [genocidal] intent must be *realistic* and must thus be understood to require *more than a vain hope.*" This would limit the possible instances and plausibility of many lone perpetrator hypothetical scenarios. (Kress, 2006, 472).

[7] The other acts that presuppose such planning are the deliberate infliction of conditions of life calculated to bring about group destruction, and forcible transfer of children from one group to another.

specific intent to destroy a protected group. [Note that the ICC Elements of Crimes, (2013), articles 6(a)–(e) each includes the separate paragraph: "the conduct took place in the context of a manifest pattern of similar conduct" (i.e. a context of collective activity based around and aimed at the fulfillment of a genocidal plan or policy).]

The structure of the crime dictates that conduct, even where specified as having a group as its object, always occurs through attacks on individual members (Werle, 2005, 199). Genocide depersonalizes the victim (Cassese, 2008, 137). In this sense, it is not because of a victim's individuality that he or she is assailed, but rather because he or she is a member of a group selected for destruction. The commentator Nehemiah Robinson captures this idea well when he writes that "groups consist of individuals, and therefore destructive action must, in the last analysis, be taken against individuals. However, these individuals are important not *per se* but only as members of the group to which they belong (Robinson, 1960, 58). One illustrative way of framing the preceding is in terms of proximate and ultimate purposes: the individual group member's demise (proximate purpose) facilitates the group's destruction (ultimate purpose). As will become apparent, this point proves relevant to considerations of both the material and mental elements of the crime.

1.3 Goals

Having sketched the basic structure of the crime as it appears in article II, a question about the goals of criminalization arises. The Convention explicitly details two of its own. It aims to oblige signatories to prevent and punish genocide, and it also seeks to facilitate international (judicial) co-operation for genocide's prevention and suppression (Cassese, 2008, 128). The Preamble also declares that "in order to liberate mankind from such an odious scourge [genocide], international co-operation is required". In the first major decision about genocide by an international tribunal, the Trial Chamber of the ICTR declared in its judgment of *Prosecutor v. Akayesu* that "the crime of genocide exists to protect certain groups from extermination or attempted extermination."[8] The court's articulation of this specific goal not only reflects the text of the definition itself, but also the views of both Raphael Lemkin, who coined the term genocide, and the Convention's drafters (Cf. Lemkin, 2008, 79–91; UN General Assembly, 1946; Abtahi et al., 2008, 1505). Although a distinction can be drawn between the Convention's avowed goal and the more specific one of safeguarding the four groups, the respective goals cannot be taken as discontinuous.

2 Material Elements or *actus reus*

The material element of genocide includes the acts detailed in article II: killing; causing serious bodily or mental harm; inflicting conditions calculated to bring about physical destruction; imposing measures to prevent births; forcibly transferring children to another group. The list is set forth as exhaustive; however, conviction for the crime of genocide does not simply mean that a perpetrator performed one of them (Robinson, 1960, 57–64). To qualify as genocide, prohibited conduct must have a national, ethnic, racial, or religious group as its object. Of

[8] *Prosecutor v. Akayesu,* International Criminal Tribunal for Rwanda, case no. IT-96–4-T, Trial Chamber Judgment (September 1998), §469.

course, this is in addition to the fulfillment of the other detailed conditions. The intent to destroy a protected group falls under the mental requirement, but because they are the objects of prohibited conduct groups fit within the material element of the crime as well.

2.1 Protected Groups

Defining groups proves essential for determinations about whether enumerated acts qualify as genocide. This poses problems in that the Convention does not provide a robust, substantive account either of groups generally, or those it specifically designates for protection. In addition, there exist no internationally agreed upon definitions of the groups' attributes (Kress, 2006, 475). The task at hand, then, consists of identifying the characteristics that constitute the group generally, and then identifying the traits of each respective group (Cassese, 2008, 138. calls them "the major problems concerning the objective element of genocide"). This will result in the clarification of the meaning of the terms.

Deliberations about the final text of the Convention indicate that the general notion of groups is based on a common definitional trait: stability.[9] This characteristic emerges from the non-voluntary and inalienable nature of group membership, which is generally determined by birth and comes with no simple exit out.[10] However, the Convention's specification of four groups indicates that not all groups displaying stability may qualify for protection, but rather only those explicitly designated.[11] In this sense, the drafters sought to protect exclusively what they regarded as stable groups. As becomes more apparent in light of classificatory accounts of the four groups' defining traits, this designation of stability or permanence remains a crucial feature for assessing the object of prohibited acts.

Three prominent approaches have been differentially applied by courts in order to determine whether the target of prohibited conduct is to be regarded as a protected group. They are the objective, subjective, and mixed accounts. The first of these, the objective approach, follows from the general idea that designated groups are stable, permanent, and as such display externally fixed characteristics. In this respect, it defines the classes of groups according to "some alleged objective features each group exhibits" (Cassese, 2008, 138).

According to such fixed criteria set out by the Trial Chamber of the ICTR in *Prosecutor v. Akayesu,* a multitude of persons constitutes a national group on the basis of their legal bond of common citizenship or national origin.[12] An ethnic group consists of persons sharing common language or culture.[13] A racial group shares hereditary physical characteristics.[14] Finally, a religious group is a set of persons who have the same religion, denomination, or mode of

[9] Sixth Committee Session, UN Doc. A/C. 6/SR.64, Sixty-Fourth Meeting (1 October 1948) in Abtahi et al., 2008, 1309.

[10] Sixth Committee Session, UN Doc. A/C. 6/SR.64, in Abtahi et al., 2008, 1309.

[11] Notice on this point that the controversial exclusion of political groups from the Convention was advanced on the grounds that they lacked the relevant stability and permanence. A good general starting point for considering this is Andreopoulos, 1994.

[12] *Prosecutor v. Jean-Paul Akayesu, International Criminal Tribunal for Rwanda, case no. IT-96–4-T, Trial Chamber Judgment, 2 September 1998.* §512.

[13] Ibid, §513.

[14] Ibid, §514.

worship.[15] This approach most faithfully adheres to the views of the Convention's drafters, but its reliance on what have been called outmoded standards has contributed to the adoption of other approaches by courts.[16]

The subjective account does not identify the respective groups according to fixed external characteristics, but rather with what Gerhard Werle calls "social ascription processes" (Werle, 2005, 195). These include designations made by perpetrators about whether their victims were group members, as well as the self-perceptions of putative members themselves. This subjective construct of groups, then, assesses whether persons were treated as though they belonged to a group, or if they viewed themselves as belonging to such a group (Cassese, 2008, 139). The subjective account faces its own challenges. At least in its pure form, this approach has been claimed to "circumvent the drafters' decision to confine protection to *certain* groups," and convert "the crime of genocide into an unspecific crime of group destruction based on a discriminatory motive" (Kress, 2006, 474).

As evidenced by case law and legal scholarship, there is a growing tendency towards the classification of groups according to a mixed standard. In this sense, both objective traits and subjective ascriptions are used to identify the four groups. This development is not entirely new, since some of the earliest judgments of the ICTR adopted this sort of perspective.[17] As described by the Report of the International Commission of Inquiry on Darfur (hereinafter Darfur Report), the mixed account allows for a classification of the four groups in which "the subjective test may usefully supplement and develop, or at least elaborate upon, the standard laid down in the 1948 Convention and the corresponding rules on genocide" (Report of the International Commission of Inquiry on Darfur, 2004, para. 500.)

The admixture of criteria addresses limitations and challenges arising from classifications based either on exclusively objective or exclusively subjective standards. As the Darfur Report indicates, social ascription processes can supplement objective analysis. By virtue of the Convention's specification of the four protected groups, even if wanting in substantive depth, as well as the underlying conception of groups as stable entities, the subjective construct cannot legally supplant the objective approach (Kress, 2006, 475; Kress, 2007, 623). This does not, however, exclude the possibility of considering additional complex social factors in order to arrive at a more nuanced definition of the four protected groups.

2.2 Prohibited Acts

Below the acts prohibited by article II are detailed in accordance with the text itself, and the definitions provided by the Trial Chamber in the *Akayesu* judgment. This court's descriptions have informed and guided subsequent rulings, and as such provide a useful definitional standard

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[15] Ibid, §515.

[16] Report of the International Commission of Inquiry on Darfur, (2004), para. 494: "This terminology is criticized for referring to notions such as 'race', which are now universally regarded as outmoded or even fallacious. Nevertheless, the principle of interpretation of international rules whereby one should give such rules their maximum effect (principle of effectiveness, also expressed by the Latin maxim *ut res magis valeat quam pereat*) suggests that the rules on genocide should be construed in such a manner as to give them their maximum legal effects [thus, some objective criteria are necessary]."

[17] As noted by Werle (2005), judgments adhering to this type of combined standard include: *Prosecutor v. Musema,* (27 January 2000); *Prosecutor v. Bagilishema* (7 June 2001); *Prosecutor v. Semanza* (15 May 2003).

(Boas et al., 2008, 177).[18] The interpretative difficulties apparent when exacting the meaning of groups do not appear when defining the acts themselves. However, determining whether certain conduct matches article II's proscriptions ultimately depends on the case by case analysis of facts by courts. This does not preclude setting out the court-provided definitions of the sorts of acts that conform to article II's list (Robinson, 1960, 64). In a more schematic form than above, the following presents these more general statements about the acts proscribed.

(A) Killing members of the group

This is often conceived of as the ultimate genocidal act (Gellately & Kiernan, 2003, 15–16). As defined by the Trial Chamber in *Prosecutor v. Akayesu* killing "is homicide committed with the intent to cause death."[19] The ICTY Trial Chamber in its Prosecutor v. Jelisic judgment summarizes the three legal ingredients of the act in this way: "the victim is dead, as a result of an act of the accused, committed with the intention to cause death."[20]

(B) Causing serious bodily or mental harm to members of the group

The *Akayesu* Judgment declared that "causing serious bodily or mental harm to members of the group does not necessarily mean that the harm is permanent and irremediable."[21] This has remained an abiding standard applied in subsequent cases about genocide.[22] As detailed in the Trial Chamber of the ICTY's *Krstić* decision, while the harm need not be permanent and irremediable, it must go "beyond temporary unhappiness, embarrassment or humiliation . . . [and] results in grave and long-term disadvantage to a person's ability to lead a normal and constructive life."[23] Acts indicative of this degree of harm include inhuman treatment, torture, rape, and deportation.

(C) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

In the *Akayesu* judgment, the Trial Chamber offered an interpretation of acts conforming to this description as "methods of destruction by which the perpetrator does not immediately kill the

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[18] Cf. *Prosecutor v. Krstić,* International Criminal Tribunal for the Former Yugoslavia, case no. IT-98-33-T, Trial Chamber Judgment, (2 August 2001), §§508-13.

[19] *Prosecutor v. Jean-Paul Akayesu,* International Criminal Tribunal for Rwanda, case no. IT-96–4-T, Trial Chamber Judgment, 2 September 1998. §501.

[20] *Prosecutor v. Jelisic,* International Criminal Tribunal for the Former Yugoslavia, case no. IT-95-10-T, Trial Chamber Judgment (14 December 1999), para.35. Note that the ICC *Elements of Crimes,* ICC-ASP/1/3, article 6(a) declares necessary conditions: "(1) The perpetrator killed one or more persons; (2) Such person or persons belonged to a particular national, ethnical, racial or religious group; (3) The perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such; (4) The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction."

[21] *Prosecutor v. Jelisic,* International Criminal Tribunal for the Former Yugoslavia, case no. IT-95-10-T, Judgment, Trial Chamber Judgment, 14 December 1999. §502.

[22] Cassese, 133.

[23] *Prosecutor v. Krsitć,* International Criminal Tribunal for the Former Yugoslavia, case no. IT-98-33-T, Trial Chamber Judgment, 2 August 2001. §513.

members of the group, but which, ultimately, seek their physical destruction."[24] The specification of 'deliberately' reinforces the point that perpetrator's conduct is consciously used as a means for a protected group's physical destruction. Examples of such conduct have been offered by courts. The ICTR Trial Chamber wrote in the *Prosecutor v. Kayishema* that proscribed acts of this sort can include "the starving of a group of people, reducing required medical services below a minimum, and withholding sufficient living accommodation for a reasonable period, provided the above would lead to the destruction of the group in whole or in part" (quoted in Schabas, 2009, 190–191).

(D) Imposing measures intended to prevent births within the group
Acts inhibiting a protected group's reproductive capacities would fall within the ambit of this paragraph. While the text indicates that measures are intended, this specification does not attach additional or independent mental requirements. As described in the judgment of *Prosecutor v. Akayesu,* such measures "should be construed as sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes and prohibition of marriages.[25]

(E) Forcibly transferring children of the group to another group
One interpretation of both the seriousness and the reason for this paragraph's inclusion in the Convention comes from the International Law Commission, which stated that "the forcible transfer of children would have particularly serious consequences for the future viability of a group as such" (Report of International Law Commission, 1996, 46). However, some have debated including this as a punishable act (Amir, 2008, 44; Schabas, 2009, 201; Kourtis, 2023, 1–22; van Krieken, 2004, 136; Grover, 2013). Nevertheless, this act requires that the person or persons forcibly transferred were part of a protected group; they were children (i.e. under eighteen years old); and, the transfer itself was from one group to another group [International Criminal Court, 2013, article 6(e)].

3 Mental Elements or *mens rea*

The primary clause from article II of the Convention describing the *mens rea* of genocide bears repeating: "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." This delimits the scope of the requirement as that of special intent *(dolus specialis).* The more recent codification of mental elements—intent and knowledge—provided by the ICC Statute applies in conjunction with the special or specific intent standard. The task at hand not only necessitates presenting the requirements set forth in the ICC Statute, but also special intent and the terms 'destroy' and 'in part.' Also, the term 'as such' will be briefly reconsidered. By exacting the meaning of these terms, the standard of *mens rea* becomes apparent. In keeping with a distinction set out early on, this lays bare the criteria of attribution or fault for the perpetrator's conduct.

[24] *Prosecutor v. Jean-Paul Akayesu,* International Criminal Tribunal for Rwanda, case no. IT-96–4-T, Trial Chamber Judgment, 2 September 1998., §505.

[25] *Prosecutor v. Jean-Paul Akayesu,* International Criminal Tribunal for Rwanda, case no. IT-96–4-T, Trial Chamber Judgment, 2 September 1998., §507.

3.1 ICC Statute – Intent and Knowledge

Genocide is among the four crimes over which the ICC has jurisdiction. As such, the Statute's definition of the required mental elements of crimes applies not only to genocide, but also crimes against humanity, war crimes, and (eventually) crimes of aggression. Although the Convention's definition of genocide appears word for word in the ICC Statute, the codification of the mental element at article 30 helps to elaborate the earlier instrument's conception of genocidal intent. This complements the specific intent requirement, and explicates the requisite intent for underlying conduct.

The two components of article 30's requirement are intent and knowledge. As the Statute declares, a person has intent when "(a) In relation to conduct, that person means to engage in the conduct; (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events." The Statute defines knowledge as an "awareness that a circumstance exists or a consequence will occur in the ordinary course of events. 'Know' and 'knowingly' shall be construed accordingly." As is evident, both intent and knowledge are required for international crimes; furthermore, article 30 allows for the application of more specified *mens rea* requirements to the respective crimes covered by the ICC Statute (Werle, 2005, 95, 103–106).

With respect to genocide, committing prohibited acts requires a feature additional to both the general criminal intent to engage in conduct and cause its consequences, as well the knowledge of such consequences and circumstances. Even if acting with knowledge of a broader plan of systematic violence, an individual's commission of an enumerated act must be performed with the specific intent to destroy a protected group (Werle, 207).[26] While knowledge and intent as detailed in article 30 of the ICC Statute clearly have relevance to determinations about a perpetrator's mindset, the differentiating aspect of the *mens rea* requirement for genocide is its specific intent component.

3.2 Specific Intent

The ICTR Trial Chamber wrote in the *Akayesu* judgment: "Special intent of a crime is the specific intention, required as a constitutive element of the crime, which demands that the perpetrator clearly seeks to produce the act charged."[27] Put another way, to be convicted of genocide a perpetrator must act against victims on the basis of their group membership, and have the purpose to destroy the group itself (Report of International Law Commission, 1996, 44; Greenawalt, 1999, 2264; Schabas, 2009, 257; Robinson, 1960, 58–60; Vest, 2007, 783). To see what makes specific intention distinct, consider again that an individual's intention to kill a victim with knowledge that his or her act will result in such a consequence (general criminal intent) does not by itself meet the *mens rea* requirement for genocide. The additional, distinguishing component is that in committing the act a perpetrator does so with the purpose to destroy the protected group, of which the individual or multiple victims are members.

In light of the above, the three basic components of genocide's intent requirement as

[26] William Schabas notes that "case law has tended to emphasize intent rather than knowledge, probably because the word 'intent' actually appears in the definition of the crime" (Schabas, 2009, 242).

[27] *Prosecutor v. Jean-Paul Akayesu,* International Criminal Tribunal for Rwanda, case no. IT-96–4-T, Trial Chamber Judgment, 2 September 1998., §498.

identified by William Schabas become clearer. First, there is the intent to destroy the group. Second, this intent is for the group to be destroyed in whole or in part. Finally, the group a perpetrator intends to destroy in whole or in part must be one of the four designated by the Convention (Schabas, 2009, 270). This depiction amplifies the specificity and strength of the requirement: all three aspects are present in the mind of the perpetrator.

Section one of this work noted the lack of explicit reference to a genocidal plan or policy in the definition of genocide. The context and circumstances of organized and systematic violence nevertheless can establish genocidal intent. The difficulty of determining whether a perpetrator acted with specific intent to destroy a group underpins the importance of contextual factors.[28] As the Trial Chamber in the Akayesu decision wrote, "it is possible to deduce the genocidal intent inherent in a particular act charged from the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others." Evidence of specific intent, then, could appear not only in the form of perpetrators' confession, but from the surrounding context of violence.

3.2.1 'Destroy'

As the Trial Chamber Judgment of *Prosecutor v. Krstić* states, "international law limits the definition of genocide to those acts seeking the physical and biological destruction of all or part of the group."[29] Remember that 'destroy' is a feature of the *mens rea* of genocide (i.e. with intent to destroy a protected group). As should be clear from the above analysis, demonstrating specific intent requires (as a necessary condition) proof of the perpetrator's intention for destruction of the group in this relevant sense.

Despite more expansive notions of genocidal destruction in earlier draft versions, the Convention's drafters eventually included only physically and biologically destructive conduct in the definition.[30] Physical destruction refers to the material eradication of a group and its members. Biological destruction is annihilation through restriction of reproductive capabilities. In this, it can be a less immediate form of destruction. These respective qualifiers can be related to the material acts themselves. Whereas killing, causing serious bodily or mental harm, and inflicting conditions of life calculated to bring about physical destruction fit most clearly into the first type, the imposition of measures intended to prevent births and the forcible transfer of children fall into the category of biological destruction.

Although the prohibited acts of genocide reflect the two sorts of destruction, this should not be taken to mean that in killing a group member, for example, a perpetrator necessarily intends the group's eradication. The material element of genocide proscribes acts of physical and biological destruction; however, to be convicted of genocide a perpetrator's purpose must be the destruction of a protected group. As discussed above, underlying conduct performed

[28] *Prosecutor v. Jean-Paul Akayesu,* International Criminal Tribunal for Rwanda, case no. IT-96–4-T, Trial Chamber Judgment, 2 September 1998., §523.

[29] *Prosecutor v. Krstić,* International Criminal Tribunal for the Former Yugoslavia, case no. IT-98-33-T, Trial Chamber Judgment, 2 August 2001. §580.

[30] Draft Convention on the Crime of Genocide, Secretariat Draft, E/447(28 March 1947), article 1 (3)(a-e) included cultural destruction in addition to biological and physical sorts; this exclusive focus also departs from the conception of genocide that Raphael Lemkin advanced, which included cultural, economic, and other forms of destruction.

with general criminal intent may be prosecuted, but genocide requires that an individual not only cause harm against a group member, but that he or she did so in order to destroy the group. The preceding summarizes the meaning of specific intent, but perhaps more importantly it underscores the essential role that destruction plays in it. To summarize intent to destroy in case law – including ICTR judgments including and after *Akayesu,* as well as ICTY rulings on *Jelisic, Krstić, Sikirica, Blagojevic,* and *Brdjanin,* respectively – "'intent to destroy' means a special or specific intent which, in essence, expresses the volitional element in its most intensive form and is purpose-based" as originally suggested in Akayesu (Ambos, 2009, 838).

3.2.2 'In part'

The words 'in part' qualify the specific intent for the physical or biological destruction of the group. Claus Kress writes that these "words make it plain that the intention need not be 'the complete annihilation of a group from every corner of the globe'" (Kress, 2006, 489). Even with this condition established, the scope of the destructive intent is not immediately apparent (May, 2010, Ch. 6). The most consistently applied and accepted standard is that of substantiality (Kress, 2006, 490). It construes 'in part' as a substantial portion of the protected group (i.e. 'with intent to destroy in whole or in *substantial* part'). This qualification of substantiality indicates an additional delineative component of genocidal intent.

Two primary interpretations of the term substantial have been applied. They are the quantitative and qualitative approaches. In accordance with the ICTY Trial Chamber in the *Jelisic* judgment, either of these standards may be used.[31] The quantitative perspective describes substantial as a large number of group members.[32] Although courts have been generally unwilling to set such limits, this approach necessitates a minimum numerical threshold in order to delineate between a substantial and an insufficient amount of victims (Kress, 2006, 490). The qualitative approach builds on the notion that certain group members are of greater significance for the continued existence of the group. On this interpretation, the loss of group elites could suffice to meet the threshold of 'in part' because of their (putative) importance to the group (Schabas, 2009, 275). It is, then, the member's qualitative impact on the group that results in satisfying the standard.

3.2.3 'As such'

This term was outlined in the preceding, but the meaning of 'as such' bears repeating as it pertains to the object of destructive intent – the group. Here, we can recall Robinson's words: "individuals are important not *per se* but only as members of the group to which they belong" (Robinson, 1960, 56). In this regard, 'as such' refers to the specific intent to destroy the protected group. Although it will be persons within a group that are the victims of genocide, it is the destruction of the group not the member's individuality that constitutes the definitive component of this crime (Werle, 2005, 208).

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[31] *Prosecutor v. Jelisic,* International Criminal Tribunal for the Former Yugoslavia, case no. IT-95-10-T, Judgment, Trial Chamber Judgment, 14 December 1999. para. 82.

[32] *Prosecutor v. Jelisic,* ibid; Robinson, 1960, 63: "The intent to destroy a multitude of persons of the same group because of their belonging to this group, must be classified as Genocide even if these persons constitute only part of a group either within a country or within a region or within a single community, provided the number is substantial."

4 Conclusion

Here, we might step back and consider again what results from having detailed all of these features of genocide. First and most evidently, the standard distinction between material and mental elements provided a framework for identifying both the meaning and intricacies of each required component of the legal prohibition. In this, both the acts and intent that constitute conditions of criminal liability for genocide were defined. Elaboration of these elements in accordance with case law, later international instruments, and legal scholarship provided substantive insights into the meaning and interpretation of the crime's constituent terms. Three issues were given special attention because of their complexity and also lack of definitional clarification in article II. They were the general notion of groups, the related matter of identifying the four protected ones, and the meaning of genocidal intent.

In light of the identification of the elements of the crime, it is possible to offer a more expansive, annotated restatement of its definition: genocide is the intentional physical or biological destruction, by means of prohibited conduct, of an entire or substantial part of a national, ethnic, racial, or religious group as such. The perpetrator of the crime, then, must have not only committed one of the proscribed destructive acts against a member of a protected group, but done so with the purpose of destroying the entire or a substantial part of the group. This captures the meaning of the crime and underscores the conditions of liability. Of course, whether the legal definition is the most appropriate one is another matter.

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Armed Banditry and Challenges of National Development

Is Nigeria's Governance System Failing?

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Abstract

The incessant bandits' activities vis-à-vis kidnapping of people for ransom, robbing them of their possessions, raping and even killing them at will by groups of people officially described as bandits in parts of Nigeria is worrisome. The study examines the nexus between governance and armed bandits' activities, as well as its effects on the people and national development. The study relies on researchers' observation of unfolding events in the study areas and secondary data. The study revealed that the poor quality of governance offered by the successive political leaders of Nigeria was the major inducing factor of these bandits' activities. Other factors include political and economic reasons, a high unemployment rate, and a high level of poverty. The study concluded that bandits' activities, if not quickly nipped in the bud will continue to inhibit the political, social, and economic development of the country, also, the activities are capable of truncating the evolving democratic governance and the corporate existence of Nigeria.

Keywords

governance, armed banditry, development, poverty, unemployment

Introduction

The year 1999 is no doubt special in the political history of Nigeria as the year ushered in democratic governance after a protracted year of military incursion into the governance and administration of the country. People's expectations at the commencement of this political dispensation were peace, tranquility, and all-round development. This was not unexpected due to some of their negative experiences during the military administration of the country which made democratic governance more desirable, however, some of these expectations were dashed.

Notwithstanding the twenty-five uninterrupted years of democratic governance in Nigeria, the country has continued to witness the poor quality of governance, with additional problems of unemployment, poverty, low quality of life, and general insecurity, vis-à-vis activities of insurgencies, Boko Haram, bandits, etc. The fact that the successive government in Nigeria's

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Fourth Republic appears incapable of proffering solutions to many of these menaces, contributed to the germination of other problems that have been clogging the peace, and tranquility of the country as well as hindering its socio-economic development and further inhibiting the progress of different sectors of the economy in Nigeria.

One of the activities that have been a thorn in the flesh of Nigerians is that of bandits (Okoli & Ugwu, 2019), especially in the northwest and northeast parts of the country. The incessant bandits' activities vis-à-vis kidnapping of people for ransoms, robbing them of their possessions, raping, and even killing them at will (Okoli & Okpaleke, 2014), is not only hindering socio-economic and political development, it equally intrudes on people's peace and threatening their rights to life. Many Nigerians have lost their lives in the course of these dastardly activities, and banditry and insurgency have placed the country at a prominent place on the scale of terrorism impact. In 2019 and 2020 for example, the Global Terrorism Index, ranked Nigeria as Number 3 of the countries with a high impact of terrorism, after Iraq and Afghanistan. Given the above, the study examines the nexus between governance and armed bandits' activities, as well as its effects on people and national development.

Weak Governance and Banditry in Nigeria: A Theoretical Perspective

There seems to be a consensus on what constitutes good governance, and specifically, there are indices to determine whether governance is good or not. In essence, it is agreed that economic development, that is, improved economic well-being, a better condition of living for the citizenry, and development in all sectors of the economy of the country, largely depends on good governance. Countries that are unresponsive to the plight of their citizens, and corrupt countries have always found it difficult therefore to mobilize resources and fail to deliver essential services to the poor (Kaufmann et al., 1999; Chhibber et al., 1997). Although, government efficiency may not automatically transform the lives of the poor, a weak state in terms of the dimensions of good governance is not likely to do much for the poor either (Moore, 2004).

Weak governance is used to describe the unwillingness on the part of the government to carry out its responsibilities (cited in OECD, 2005, 2). Put differently, it is a condition where public authorities fail to protect the rights of the citizens and fail to provide basic public services to the people. Thus, "government failures" in these categories do spawn failures in "political, economic and civic institutions" (OECD, 2005).

One of the major factors found to have contributed to weak governance is the ascendancy of an organized gang of criminals into the governance system of a country. Organized criminal gangs do put forward their members to contest for political offices. They do support such members by bankrolling their ambitions to secure election victory. Whenever the candidates of organized gangs win elections, come to power, and are in a position of authority, the government of such a country is in danger. Such a country will have its democratic process weakened, with defective political structures and weak state institutions, which will further undermine the governance system (Ikoh, 2013). Defective political structures combined with weak institutions have been discovered to make a country susceptible to organized crimes (Henkel, 2013), of which banditry is one.

While it is believed that weak governance spawns organized crimes, yet weak governments cannot curb and control organized crimes. This is because it is always difficult, if not impossible, for ineffective bureaucratic structures to deliver effective services. Organized crime contributes to the weakening of government capacity by exploiting the country's resources and eroding the government's legitimacy which is crucial to good governance. Organized gangs have been able to infiltrate many African countries' politics and economies. The gangs have also formed

syndicates controlling and regulating the daily activities of the government (Alemika, 2013a). This is achieved in the words of Alemika, "in a mutually reinforcing pathway, by employing corruption to co-opt officials and to capture critical state agencies" (Alemika, 2013b, 16). Therefore, it is not news in Nigeria that politicians and/or members of their families and security agents have on many occasions been indicted for their involvement in different organized crimes (Alemika, 2013a). The declaration by a political group tagged "I Stand with Buhari", to expose alleged sponsors of terrorism and banditry in the country bore eloquent testimony to this. According to this group:

> We have a list of their names, from state governors down to political influencers, youth organizations, as well as clandestine organizations under their payroll. We are therefore giving them until the end of the month to disband their private militia and discontinue their sponsorship of banditry and terrorism in Nigeria. If they refuse by the end of the month, we will not only expose their identities to the world but will also embark on mass action against them in their respective locations (Sahara Reporters, 2021, para. 5–7).

Weak governance in Nigeria has continued to manifest in the areas of dwindling capacity of political leaders. However, the political leaders are yet to realize the danger attached to such activities of insurgencies, armed banditry, and other menaces, as capable of posing a threat to the unity and corporate existence of the country. For that reason, Olaniyan & Yahaya (2016) affirm that banditry thrives as a result of gross governance deficits. And so, weak governance has been a major obstacle to development and has been impeding the government from responding to pressing challenges in the country (Andrijevic et al., 2020).

The political operators in Nigeria have, due to their weak governance, subjected its citizens to declining living conditions. They promised economic prosperity and general development to the citizenry during the electioneering campaign only to renege on the promises after they got to office. Worst still, they even mismanage the national resources including funds received from the donor agencies in the form of aid. This has continued to keep a large number of people in perpetual poverty. It is in line with the above that the American Security Project states thus:

> banditry has become an appealing method of income in northwest Nigeria where weak governance, youth unemployment, poverty, and inequality have left people with depleted options for livelihood. Security services are often understaffed and lack the proper resources to effectively combat banditry. Vast areas of unregulated forests allow for easy concealment, and police and military forces have difficulty penetrating the rough terrain. In addition, under-policed borders have aided the proliferation of small arms and light weapons amongst bandit groups. (Brenner, 2021, para. 4)

The Origin and Contributing Factors to Banditry in Nigeria

The origin of banditry in Nigeria could not be precisely determined. Some scholars, however, trace its origin to around 2011 when the northwest part of the country experienced a wave of violent attacks between the nomadic Fulani herders and sedentary Hausa farmers (Brenner, 2021). Prior to 2011, armed banditry used to be unnoticed, ignored, and under-reported, till the situation changed in 2011 when a set of gangs that specialized in armed banditry became apparent and ruthlessly attacked and killed people taking possession of their wealth and properties (Rufa'i, 2018).

According to the International Crisis Group (2020), the security crisis in the northeast and northwest stems from the age-long contest and competition over resources including land and water. And so, both Fulani herders and Hausa farmers have over the time mobilized armed groups being referred to as "bandits" and "vigilantes", to protect their different interests.

Different scholars from different perspectives have chronicled how banditry developed in the country. Some of them believe that banditry spawned out of the inordinate ambition of some politicians who want to get to power by hook or by crook. This set of politicians organized, armed, and sponsored some youths to pursue electoral victory for them during the 2011 general elections. However, after the victory had been secured in the elections, the youths used as machinery to get to power were completely forgotten. Thus, when these set of youths can no longer meet their daily needs, they convert the arms and ammunition given to them during elections into tools for perpetrating crimes for their sustenance (Gadzama et al., 2018).

To scholars such as Shettima & Tar (2008), Olaniyan & Yahaya (2016), and Okoli & Abubakar (2021), banditry is a response to the injustice meted out against the agro-pastoral groups in parts of the country (International Crisis Group, 2021). Therefore, bandits sprang from the building up of mercenaries to fight and defend the herders against the farmers. From the onset, the idea of building up mercenaries was to bring about unity and cohesion among the herders (Rufa'i, 2021), but it turned into these mercenary fighters being transformed into bandits committing crimes against the people and the state (International Crisis Group, 2020).

The informal gold economy in northern parts of the country is another issue supporting banditry. Bandits are believed to be working with the artisanal, their deals involved exchanging the illegally mined gold for weapons, especially at the border areas of the country. It is also argued that the spate of banditry is the aftermath of the ascendency of some warlords yearning to have their share of the country's wealth (Ogbonnaya, 2020; GI-TOC, 2021). According to Mukhtar (2021), expressed in an interview with the *Daily Trust*,

> Banditry is a kind of offshoot of other criminal activities that the country has been facing. The bandits took advantage of the security situation in our country […] So go back to the last ten years and find out what happened with our governance, with our societal structures and situation then we will now understand how the banditry began. In the beginning, they were ordinary criminals who stole cows and whatever. But it took a different dimension because it later became a lucrative business. (Mukhtar, 2021, para, 2)

The issue of banditry according to Tade, in Remi (2021) is attributable to a high level of unemployment that pervades the northeast and northwest states of Nigeria. These parts of the country are leading in terms of unemployment and people living in poverty. These duo variables of unemployment and poverty are common factors that spark criminality and other social menaces. While supporting his claim with statistical details, Tade states thus:

> The statistics from the region from the National Bureau of Statistics in the last quarter of 2020 showed that Katsina alone has 25.5percent unemployment rate of about 438,808 people unemployed; Jigawa has 565,978 (38.69%), Kaduna has 1,111,091 (44.35%), Kano has 717,086 (25.5%) while Kebbi, Sokoto, and Zamfara have 213, 570 (17.25%), 162,349 (14.48%), 202, 568 (12.9%) respectively. The statistics on the poverty rate in the region are a sign of danger and failure of effective leadership. (Tade, cited in Remi, 2021)

In essence, there are links between unemployment, poverty, and criminality in Nigeria. The high rate of poverty is a manifestation of a high level of unemployment, especially among the youth, which has been found to induce criminalities among this group of people (Adegbami & Uche, 2016). Other contributing factors to banditry in Nigeria include massive and unregulated forest areas that allow for the concealment of loathsome activities, under-policed borders that allow the influx of unregulated and unidentified people into the country, and proliferation of small arms and light weapons.

Banditry Strengths and Strategies of Operation

Banditry can be seen as a form of organized crime. It is a form of armed robbery or violent crime, that involves threat and use of force to coarse and intimidates people with the intention of robbing, raping, kidnapping, or killing the victim(s) (Olaniyan & Yahaya, 2016). In carrying out these odious acts and activities, the bandits use various techniques to deal with their victims. Bandits' operating techniques include ambushing victims on the highways and different transit points, invading, and sacking communities (Ahmed, 2021).

Bandits' system of operation involves the soldierly and mastery skills of using different types of military weapons. The knowledge acquired from a series of training from the military and paramilitary officers alike perhaps has assisted them. This suggests an underground relationship between them and the security agents, vis-à-vis the Nigeria Police, The Nigeria Army, etc. In the words of Gumi:

> These bandits are operating with a lot of people in the security system. This is business, otherwise, how can these big weapons they use across the borders into the country if money is not exchanging hands? (Gumi, cited in Omonobi, 2021)

The soldierly skills of using different types of weapons by the bandits also suggest that there are retired military and paramilitary officers among them.

Bandits carry out their operations in groups, it can be under one or more leaders. Anyone cannot just be or become a bandits' leader. Some of the peculiarities of a bandits' leader are being charismatic, having the required experience, and being skillful in carrying out operations effectively (Kugbayi & Adegbami, 2023). Beyond this, bandits' leaders must possess wealth in terms of money, this is essential to make relevant friends needed for successful operations. Money is also crucial to bribe people who matter, and people of importance to bandits' activities. And of course, money is indispensable to pay for necessary connections, extend networks, and negotiate for safety where and when necessary.

Bandits' major source of power came from information, to this extent, they have some loyalists, especially among the poor masses, who see giving information to the bandits as a means of getting daily bread. Given the fact that these informants are free citizens, they can move around the communities and gather necessary information for the smooth operations of bandits.

Bandits also adopt guerilla tactics including ambushes, hit-and-run raids, and petty warfare strategies among others. At times they invade the roads and organize roadblocks, through which they may easily halt and prey on the commuters, dispossess them of their properties, kidnap some, and demand ransom from victims' relatives and friends, or kill them. With the money generated from these dastardly activities, they live a reckless life, continue to buy the loyalty of some people, and most importantly acquire advanced weapons for further operations.

Bandits are heavily armed in the course of their operations. They normally force themselves into people's homes, private organizations, as well as government institutions at will. The bandits' operation also involves groups of gunmen entering targeted areas on motorbikes, shooting people they find on their way, and carting away their livestock and other valuables (Hassan, 2021).

The activities and operations of bandits in Nigeria could be described as torrential. In January 2021, no fewer than 200 people were killed and almost 10,000 people were displaced following a series of attacks carried out in Zamfara state only. The attacks started when not less than 300 armed bandits were conveyed down to the Anka Local Government Area on motorcycles and raided about eight villages. Similarly, they raided another ten villages in Anka and Bukkuyum Local Government Area in the following two days. During these raids, it was reported that about 2,000 cattle were stolen, several houses were burnt and people's bodies were mutilated (ACAPS, 2022; Global Centre for the Responsibility to Protect, 2022). Similarly on February 18, 2024, no fewer than 12 people were killed and nine others seriously injured by bandits when they attacked Gindin Dutse Makyali village of Kufana district in the Kajuru Local Government Area of Kaduna State (Enyiocha, 2024), and on Monday March 11, 2024, at least seven persons were also killed following bandits attacked of a market in the Wase Local Government Area of Plateau State (Abraham, 2024).

Bandits' attacks on the military and other security agents in Nigeria are also unprecedented. For instance, they have succeeded in downing an Alpha Jet belonging to the Nigerian Air Force, beating down the Military intelligence, attacking the Military's Officers Training School, and killing some members of the armed forces. In January 2022, eleven security agents were killed in Shiroro and Paikoro local government areas of the state. According to the Niger State Government "the terrorists, numbering over 100 invaded the community in broad daylight, killing eleven Joint Security Taskforce members and leaving many injured" (cited in Maishanu, 2022). In March 2022, the bandits carried out another dangerous attack on the country's commercial train that was carrying passengers from the Federal Capital Territory of Nigeria, Abuja to Kaduna which is the major military base of the country. The bandits bombed the moving train with hundreds of passengers on board. In the process, eight passengers were killed, many were kidnapped, with an unascertained number sustaining various degrees of injury (Egobiambu, 2022).

Blooming Bandits' Activities: Is Nigeria's Governance System Failing?

The fact that bandits' activities are blooming daily basis signifies that there is a problem with Nigeria's governance structure. And the implications of armed bandits' activities on Nigeria and Nigerians have been brutish and nasty. The bandits' activities did not only have tangible effects but also intangible ones which may be difficult to quantify in monetary terms. The activities apart from being destructive to the country's political and socio-economy also have a shattering effect on human survival and existence. According to Maltzan (1998, 14), "For individual victims, the psychological effect is devastating. But once crime reaches endemic levels, it inflicts severe strains on the social fabric and ultimately leads to moral decline and disintegration of society".

The upsurge of banditry in the country has disrupted people's means of livelihood and the delivery of essential services to the areas being affected by bandits' activities. Since 2011, when the activities of banditry are well documented, about 200,000 people have been rendered homeless and had consequently fled their abode. In essence, banditry has been a major cause of

people's displacement in the northern part of the country, and about 77,000 Nigerians have fled to neighboring countries because of this (Brenner, 2021).

That Zamfara becomes one of the poorest states in Nigeria is not unconnected with the resultant effects of banditry. The state, being the center of bandits' activities, has continued to record the highest rate of violent deaths, with about 495 reported killings between July and October 2021 (Hassan, 2021). In their report, Ojewale & Balogun (2022) state that no fewer than 1,126 villagers were killed between January and June 2020. On December 6, 2021, 23 persons lost their lives due to bandits' attack on the bus conveying travelers from Sokoto to Kaduna at Gidan Bawa village in Isa local government area of Sokoto State. Also, in January 2022, at least 200 villagers were killed by bandits in Zamfara State, a situation which was described as "one of the region's worst recorded atrocities" (Ojewale & Balogun, 2022). Again, in March 2022, the bandits attacked a commercial train conveying passengers from Abuja to Kaduna, where eight of the passengers got killed, many sustained various degrees of injury, while many were kidnapped (Egobiambu, 2022). The continuous bandits' activities have greatly increased the number of widows, widowers and orphan children (Yahaya & Bello, 2020). Besides, many people through their heinous acts have lost sensitive organs of their bodies, which rendered them incapable of caring for themselves.

The implication of banditry on children and women cannot be overstated. They are the most vulnerable to bandits' attacks, as being appearing defenceless. For instance, about 61 out of more than 780 children abducted for ransom by bandits in 2021 were still in captivity some months after. In addition, children's right to education is in peril due to constant attacks on schools, and so, many of the schools were shut down indefinitely. The incident has thus added to the growing number of out-of-school children in the country. Regarding women and girls, they bear the most excruciating burdens. They are on many occasions subjected to sexual violence, raped, worst still, they are sometimes commodified, and traded-off in exchange for families' protection. Giving the picture of what has transpired in Niger State, Ojewale & Balogun (2022) state that "at least 30 women and girls were raped indiscriminately across five communities in Shiroro Local Government Area of Niger State. A similar act was carried out in Tsafe Local Government Area of Zamfara State in response to communities refusing to pay a N3 million levy (approximately 5,000 USD). In the unfolding events, bandits are also co-opting women for their criminal activities".

The spate of banditry attacks has equally sparked off a food emergency across the northeast and northwest regions, this is because, not less than 450,000 people fled farms and rural markets (Hassan, 2021). Farmers have been constantly attacked, and are expected to either pay exorbitant levies to armed bandits or abandon their farmlands. As a result, many of them can no longer access their farmlands. Thus, the projection that about 38 million people in the country will become food insecure between June-August, 2022 (WFP, 2022), was not a mere projection but reality.

In essence, targeted attacks meted on farmers have led to their displacement, and can neither produce foods in subsistence nor commercial quantity. The humanitarian efforts to respond to their needs are being overstretched, and so, many of them have no access to organized assistance and are in despairing need of necessities of life to survive.

Another major effect of banditry on Nigerians and Nigeria is that of resource wastage. For instance, on July 18, 2021, the bandits put down an Alpha Jet belonging to the Nigerian Air Force on the border between Zamfara and Kaduna States. The Nigerian Air Force on October 7, 2021, as reported by the Wall Street Journal paid a whopping sum of 20 million naira (c. 14,000 USD) to bandits to recover "an antiaircraft gun" that the bandits had seized from them

during a clash (cited in Kperogi, 2021). Also in September 2021, after the mass kidnappings and brutal raids on civilians, bandits placed a ransom of twenty million naira on five villages to avoid being attacked (Ojewale & Balogun, 2022). Apart from these, the country has reportedly spent about ₦6trn (about 4.5 billion USD) on security without making much headway in the last 10 years (Ibemere, 2020). Similarly, in June 2021, the Minister of Finance, Zainab Ahmed disclosed the plans of the Federal Government of Nigeria to borrow a sum of 722.53 billion naira (1.76 billion USD) from domestic capital markets to fight against insecurity (Jimoh et al., 2021). These are resources that should ordinarily be expended on projects for development to improve the quality of life of the citizens under a good governance setting.

Another implication of banditry has to do with the image of the country before the international community. The image of a country is evaluated by different variables, including the National Development Index, level of human security, political stability, quality of leadership, and level of the welfare of the citizens, etc. However, none of these variables could be said to be adequate when assessing Nigeria. The security challenges have continued to present the country negatively and dent the international outlook of the country. And so, countries across the world have been warning their citizens not to travel to Nigeria.

Bandits' activities have continued to disrupt business activities and cause the relocation of businesses to a relatively safer area. The activities have also undermined the activities of Agro-Allied and some other industries and have equally inhibited industrial expansion. Bandits' activities have further made Nigerian industries uncompetitive, thereby, adding to the unemployment issue (Wuyo, 2021). Banditry has also discouraged foreign investors from transacting businesses in Nigeria. For that reason, many foreign investors who should have invested in the country's economy have stayed away due to a high level of insecurity.

Flowing from the implications and far-reaching impacts that banditry activities had on the country, and without any tangible solution in sight, one may then ask, is the governance system of the country still working? That the incumbent President of Nigeria canvassed for foreign assistance toward curbing the insecurity challenges in Nigeria is a testimony to the fact that the country's governance system is failing, as the government appears incapable of handling its security issues. It will be recalled that in 2021 President Buhari requested the USA to relocate its Africa Command (AFRICOM) headquarters from Germany to Africa to be able to assist in curbing the security menace, particularly in Nigeria and Africa in general. He made the request during a virtual meeting with U.S. Secretary of State, Anthony Blinken. President Buhari, according to his Special Adviser on Media and Publicity, Mr. Femi Adesina, states:

> The support of important and strategic partners like the U.S. cannot be overstated as the consequences of insecurity will affect all nations, hence the imperative for concerted cooperation and collaboration of all to overcome these challenges. In this connection, it underscores the need for the U.S. to consider relocating AFRICOM headquarters from Stuttgart, Germany to Africa (Ogundele et al., 2021).

In a similar vein, the Former President of Nigeria, Olusegun Obasanjo in the year 2022 declared that the Buhari Administration has no solution to the spate of insecurity in Nigeria. According to him: "I believe that all right-thinking Nigerians must know that we have a situation that has overwhelmed the administration." (Obasanjo cited in Akhaine et al., 2022)

In addition, the outburst of Mr. El-Rufai, the former Governor of Kaduna State, where most of the military bases of the country were located, equally portrayed the incapacitation of the government to perform one of its major responsibilities, which is to secure people's lives

and their properties. El-Rufai while reacting to the series of attacks in Kaduna state and its environment states:

> I have complained to Mr. President and I swear to God, if action is not taken, we as governors will take action to protect the lives of our people. If it means deploying foreign mercenaries to come and do the work, we will do it to address these challenges." (El-Rufai, cited in Daily Trust, 2022)

In essence, the request by the Nigerian President for foreign assistance in curbing the security challenges in Nigeria is a threat to the country's sovereignty. And the outburst of the Governor of Kaduna State to invite "foreign mercenaries to come and do the work" that the government is incapable of doing is a mockery of Nigeria's independence. Similarly, the statement made by the former President of Nigeria that the spate of insecurity has overwhelmed the government is a plain admittance that Nigeria's governance system is steadily failing.

With the assumption of office of President Bola Tinubu in May 2023, the security situation in Nigeria has remained challenging, with banditry remaining a major problem. While there have been some successes in disrupting the activities of criminal gangs, the overall security situation remains fragile. In addition, the ongoing conflict in the country's northeast region has continued to destabilize the country and further exacerbate the insecurity. As a result, the bandits' activities in the country remain high, and many communities remain vulnerable to attacks. For instance, in the first quarter of 2024, there have been several reported incidents of bandit attacks on communities in Nigeria. In January, a group of bandits attacked the military camp at Nahuta town in Katsina State, burgling stores, breaking into homes, taking away properties and animals worth millions of naira (Umar, 2024). In February, another attack was reported in the Kufana district area of Kaduna State, in which twelve people were killed and many others were injured (Adekunle, 2024). Also, in March, several villages in Zamfara State were attacked by bandits, resulting in the death of ten people and the abduction of several people (Salaudeen, 2024). These attacks are just a few of many that have taken place across the country. The attacks have had a devastating impact on the affected communities, causing widespread suffering and destruction. The attacks have also led to increased insecurity and instability, making it difficult for people to live in peace.

Any country where its government cannot guarantee people's security is a failed country. Thus, the postulations by Rotberg (2003, 1) that "nation-states fail because they are convulsed by internal violence and can no longer deliver positive political goods to their inhabitants", became relevant given the situation on the ground in the country. The relevance of the statement is better appreciated when one considers the security threats facing the country, from the activities of armed banditry to that of the Boko Haram insurgency, cases of unchecked kidnappings, the conflict between the herdsmen and farmers, and recurrent communal and social conflicts among others remains unabated, while social services delivery by the government has declined steadily.

Conclusion

The study has been able to establish the rising waves of banditry in the northeast and northwest parts of Nigeria, without low or no sign of halting the menace, which invariably suggests that the governance system in Nigeria is gradually failing. The odious challenge has continued to inflict unquantifiable damages on political, economic, educational, social psychological, and other

areas of the lives of the country and its citizens. The study concluded that bandits' activities, if not quickly nipped in the bud will continue to inhibit the growth and general development of the country, beyond this, the activities are capable of truncating the evolving democratic governance and the corporate existence of the country. The study recommends that good governance should be instituted, this can be achieved by banning people of questionable character from holding public offices in the country, and leaders with proven integrity and emotional intelligence who will deal with the root causes of heinous activities in the country be put in place.

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Insights into PCI and DDCI as Key Metrics for Measuring Subnational Competitiveness in Vietnam

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Abstract

The purpose of this study is to review and understand Vietnam's measurement of competitiveness for its local authorities. This paper delves into the application of two fundamental metrics, namely the Provincial Competitiveness Index (PCI) and the Department and District Competitiveness Index (DDCI). As Vietnam continues its trajectory of rapid economic development and regional integration understanding the dynamics of competitiveness at subnational levels has great importance. Drawing upon an overview of the competitiveness concept, case study, and perspectives, the article provides a holistic understanding of subnational competitiveness metrics in Vietnam. Results offer valuable insights for policymakers, researchers, and stakeholders involved in subnational development strategies and economic governance frameworks in Vietnam and beyond. This study also indicates future opportunities and challenges within research on pillars/indices, indicators and their impacts on creating the ease of doing business at subnational level.

Keywords

Business environment, Competitiveness, Economic governance, Investment climate, Metric.

1 Introduction

In an increasingly interconnected global landscape, the quest for competitiveness transcends national borders, extending its significance to the granular levels of regions, provinces, states, districts, and cities (International Labour Organization, 2006). Understanding and measuring competitiveness at subnational levels have emerged as pivotal endeavors in the pursuit of sustainable development, economic growth, and effective governance (Medeiros et al., 2019; Siudek & Zawojska, 2014). The significance of evaluating competitiveness at a localized scale lies in its ability to unveil nuanced insights into the diverse and dynamic fabric of regional economies. Subnational competitiveness measurement transcends the one-size-fits-all approach, recognizing the intricate interplay of localized factors that influence the economic, social, and developmental trajectories of specific regions (Nguyen, 2009).

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Against the backdrop of Vietnam's rapid economic transformation and the increasing decentralization of governance, understanding the intricate dynamics of competitiveness within provinces, departments, and districts becomes of paramount importance. Besides, as Vietnam positions itself on the global stage as an emerging economic power, the need to comprehend and enhance the competitiveness of its diverse regions becomes increasingly acute. At this level of analysis, the evaluation of competitiveness becomes a potent tool for policymakers, businesses, investors, and communities. It provides a lens through which tailored strategies can be crafted, resources efficiently allocated, and targeted interventions implemented to harness regional strengths and address specific challenges (Reinert, 1995).

The concept of subnational competitiveness used in this paper refers to the economic governance quality of provincial/local authorities and public agencies of the country in creating the best socio-economic, environmental and legal conditions for development of economies and private sector. Based on that basis, this study delves into the comprehensive exploration of two key metrics, the Provincial Competitiveness Index (PCI) and the Department and District Competitiveness Index (DDCI), as essential tools for gauging subnational competitiveness within the socio-economic context of Vietnam. It illuminates the multifaceted implications of such assessments, including the facilitation of the improvement of business environment and investment climate, and the enhancement of governance effectiveness and social progress.

This paper adds several contributions to the current literature. First, to the authors' knowledge, despite subnational competitiveness measurements are important, research on this theme (esp. focusing on PCI and DDCI measurements) in Vietnam is still limited. Viet (2013), Le & Duy (2021), Malesky et al. (2022), Nhan & Lee (2023) and Nguyen et al. (2023) are the few studies that have been conducted to understand the impacts and effectiveness of measurements in Vietnam. By exploring the intrinsic value and practices of assessing competitiveness at subnational levels, our study systematically synthesizes the pivotal role that key metrics for measuring subnational competitiveness of Vietnam plays in shaping informed decision-making, driving sustainable development, and fostering favorable business environment.

Secondly, this paper delves into the intricate fabric of Vietnam's PCI and its derivative index at departmental and district level, focusing on the localized application in the case study of Can Tho city (Vietnam). Can Tho, situated in the heart of the Mekong Delta, embodies a microcosm of Vietnam's burgeoning economy and cultural richness. By analyzing the adaptation and localization of the DDCI measurement in this city, we aim to unravel the unique nuances and distinctive features that define its competitive landscape, contributing to a broader understanding of subnational development strategies within Vietnam.

2 Brief Literature Review

The term of Competitiveness is a frequently used concept in business, economics and public discussion. The concept encapsulates the dynamic capacity of individuals, organizations, regions, or nations to thrive and excel within a competitive environment (Lee et al., 2013). It extends beyond a mere comparison of products or services of corporate sector, and encompassing a multifaceted array of factors that contribute to success, innovation, and sustainable growth (Reinert, 1995).

Competitiveness concept has been used by politicians and scholars since the 1970s (Krugman, 1996), but it began to spread globally in the 1990s with Michael Porter's book, Competitive Advantage of Nations (Lee et al., 2013). In the study of Siudek & Zawojska (2014),

competitiveness is synthesized by the spectrum of dimensions, in which it takes into account theoretical and relevant concepts associated with the market mechanism, place-based approach, and confusing terms that are often used interchangeably such as innovation, productivity and market share. In each research field, scholars have tried to mention and add different perspectives into the definition of competitiveness (Le & Duy, 2021; Mulatu, 2016; Siudek & Zawojska, 2014). This has diversified the competitiveness concept from both standpoints of field of study and place-based levels. In this research, we elaborate on the place-based competitiveness at national and subnational levels.

Although, there is no consensus on the concept of competitiveness at national level, scholars have made initial efforts to define it, and to explore methods for measuring it to some extent. Of those efforts, European Commission (2001) has defined Competitiveness of the national economy as "the ability of an economy to provide its population with high and rising standards of living and high rates of employment on a sustainable basis". Meanwhile, the World Economic Forum – WEF – (2003) in its Global Competitiveness Report has explained that competitiveness is characterized by the set of institutions, policies, and factors that determine the level of productivity of a country. By integrating the concept of WEF and Michael Porter's notion on national productivity, Nguyen (2009) referred national competitiveness as a "nation's ability to create and sustain economic growth, and raises the standard of living of its citizens by improving national productivity in condition of a market economy". In summary, the country's competitiveness will capture and determine whether its economy has attractiveness, sustainable growth and a favorable business environment.

Given the importance of national competitiveness, there have been many attempts to measure it at a global scale. The very first attempts are from the Global Competitiveness Index (GCI) and the IMD World Competitiveness Ranking (WCR). The GCI captures national competitiveness with 12-pillars structure from 4 focus areas (i.e. enabling environment, human capital, markets and innovation ecosystem) in the WEF's latest report (World Economic Forum, 2020). The WCR on the other hand was built based on 336 criteria from 4 focus areas (i.e. economic performance, government efficiency, business efficiency, infrastructure) selected as a result of comprehensive research (IMD, 2023). For regional settings, there is the existence of the EU Regional Competitiveness Index (RCI) (European Commission, 2024). The RCI is constituted of three pillars – Basic pillar (institutions, macroeconomic stability, infrastructure, health and basic education), Efficiency pillar (higher education and long-life learning, labor market efficiency, market size), Innovation pillar (technology readiness, business sophistication and innovation).

At subnational level, there are only a few countries that currently apply measurements of competitiveness. In South America (Benzaquen et al., 2010), one may mention Structural Departmental Competitiveness Index and Revealed Departmental Competitiveness Index (Colombia), State Competitiveness and Competitiveness of Mexican Cities (Mexico), Regional Competitiveness Index (Peru and Chile). In Africa, there is the Subnational Business Competitiveness Index (SBCI), which is an effort of Nigeria (Iarossi, 2013). While in Southeast Asia, our study has identified reliable indicators from Vietnam, Indonesia and the Philippines. They are the Provincial Competitiveness Index (PCI), Department and District Competitiveness Index (DDCI) (Malesky et al., 2024), Cities and Municipalities Competitiveness Index (CMCI) (Villamejor-Mendoza, 2020), and ACI's Competitiveness Framework (Tan & Amri, 2013). These indices have recognized the efforts of mentioned countries in improving business environment and investment climate. In this article, we concentrate on PCI and DDCI of Vietnam.

3 Significances of Competitiveness Measurement at Subnational Levels of Vietnam

3.1 Provincial Competitiveness Index (PCI) as a driving force for governance reforms and business environment improvement

The quantitative evaluation and measurement of competitiveness and economic governance across Vietnam's provinces/cities have emerged as pivotal factors in understanding the country's socio-economic landscape. Keeping pace with that trend, the PCI was launched as a reliable instrument, offering insights into the multifaceted dynamics shaping Vietnam's subnational development. The PCI was first coined in 2005 by a joint initiative between Vietnam Chamber of Commerce and Industry (VCCI) and the U.S. Agency for International Development (USAID). On its surface, PCI measures and ranks Vietnam's provinces/cities on a number of key indicators. However, to create a comprehensive assessment of the improvement of the business and investment environment in Vietnam, the backbone of PCI is surveyed of both domestic and foreign enterprises. This reflects a robust measurement for business climate across the country, but the devil is in the details.

Figure 1. Explanations of PCI's sub-indices

Entry Costs	Assesses the differences in entry costs for new enterprises across provinces
Land Access and Tenure	Measures the ease with which entrepreneurs can access land and the security of tenure once they have acquired it
Transparency	Assesses whether firms have access to planning and legal documents necessary to run their businesses, whether those documents are equitably available, whether new policies and laws are communicated to firms and implemented predictably, and whether the provincial webpage is useful for businesses
Time Costs	Measures how much time firms waste on administrative compliance and much time they have to shut down their operations for inspections by local regulatory agencies
Informal Charges	Assesses the amount of informal charges firms pay, how difficult it is for their business operations to pay those extra fees, whether payment of those extra fees produces expected results, and whether provincial officials use compliance with local regulations as a means of extorting money from businesses
Policy Bias	Assesses the competitive environment for private enterprises in advance of incentives for stateowned enterprises, foreign-invested enterprises, and businesses familiar with provincial government officials, expressed in the form of specific privileges and privileges when accessing resources for development such as land, credit, etc., and priority treatment in the implementation of administrative procedures and policies
Proactivity of Leadership	Assesses how provinces implement central policy, design their private sector development initiatives, and work within sometimes unclear national regulatory frameworks to assist and interpret in favor of private firms
Business Support Policy	Measures provincial services for private sector trade promotion, provision of regulatory information to firms, business partner matchmaking, provision of industrial zones or industrial clusters, and technological services for firms
Labor Training	Measures the efforts by provincial authorities to promote vocational training and skill development for local industries and assist in local labor placement
Legal Institution and Security	Measures the private sector's confidence in provincial legal institutions and whether firms regard provincial legal institutions as an effective vehicle for dispute resolution or as an avenue for lodging appeals against corrupt official behavior

Source: Adopted from Malesky et al. (2023) and Nhan & Lee (2023)

PCI represents a comprehensive framework that assesses Vietnam's business and investment environment, administrative efficiency, and quality of economic governance at the provincial level. Through a structured evaluation process involving surveys, data analysis, and stakeholder engagement, the PCI endeavors to provide a better understanding of each province's competitiveness landscape. This tool aids in identifying key drivers that contribute to economic

dynamism and serves as catalysts for sustainable development within specific provinces and areas. In other words, PCI serves as a compass, guiding policymakers, businesses, and stakeholders toward not only building the ease of doing business but also fostering an environment conducive to economic vibrancy and social progress.

With the expectation of fully grasping the environment for doing business in Vietnam, PCI was built with 10 pillars (or sub-indices) including: (1) Entry costs, (2) Land access and tenure, (3) Transparency, (4) Time costs, (5) Informal charges, (6) Policy bias, (7) Proactivity of leadership, (8) Business support policy, (9) Labor training, and (10) Legal institutions and security. These features are respective efforts of localities, partly enabling the ease of doing business in Vietnam.

Since 2006, PCI program has re-evaluated its methodology and re-calibrated the structure of the index and sub-index weights every four years. By doing so, it is ensured that PCI can timely capture the recent changes in the business environment and investment climate of Vietnam. And theoretically, PCI is required to fulfill their updates on methodology and the quality of measurement. However, with the dynamic nature of the economy and on-going reform in Vietnam, these periodic amendments are utterly needed.

Moreover, PCI program has supported implementation of Vietnam's agenda on administrative reform, featured by Resolution 30c/NQ-CP on the National Program for Administrative Reform from 2011 to 2020. PCI and its derivative index, DDCI (which will be discussed in the next section) are amongst Vietnam's major efforts in measuring public sector performance, what is more, it is part of a comprehensive reform of public administration and economic governance performance. PCI (with DDCI) along with PAPI (the Vietnam Provincial Governance, Public Administration Performance Index), SIPAS (Satisfaction Index of Public Administrative Services) and PAR Index (Public Administration Reform Index) are considered as four pillars of Vietnam for building a modern, effective, and efficient system of state administrative agencies from central to grassroots levels. By comprehensively reforming the government, Vietnam has brought its government closer to the "tectonic government" concept (Ho, 2020) for favorable business environment and investment climate.

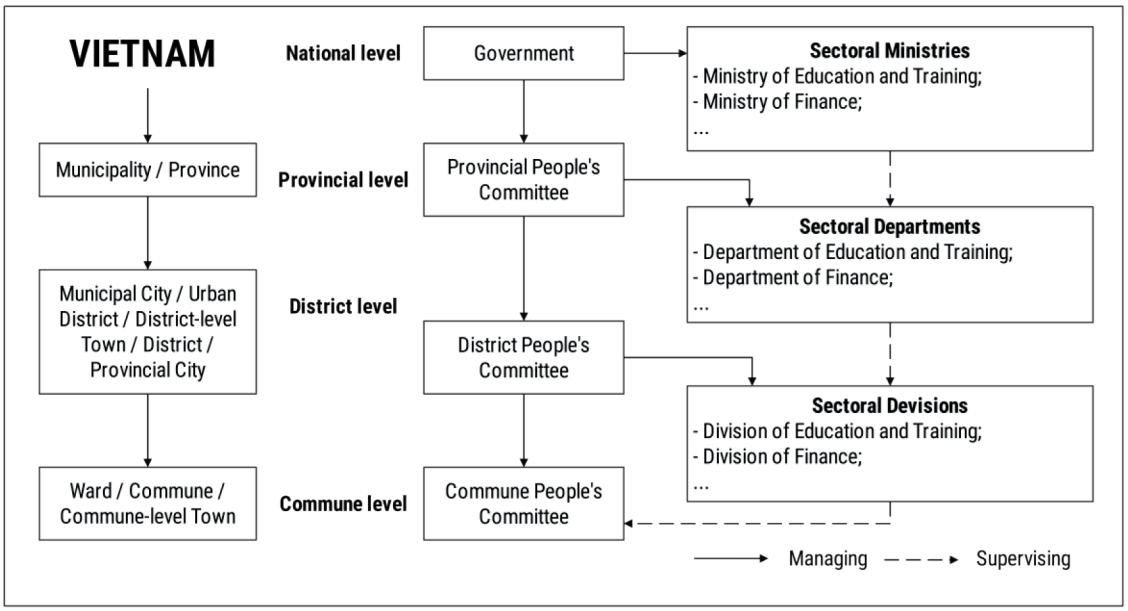
In addition, the comparison of the PCI with other competitiveness frameworks, such as the ACI Framework (Giap et al., 2013), reveals areas where PCI can be further developed to enhance its comprehensiveness and effectiveness. The ACI Framework, for instance, delineates competitiveness through four distinct quadrants, encompassing (1) Macroeconomic stability, (2) Finance, business, manpower condition, (3) Government and institutional setting, (4) Quality of life & infrastructure development.

Currently, PCI does not fully capture the holistic concept of national competitiveness, as it predominantly concentrates on assessing government operational efficiency and institutional frameworks. For a more comprehensive evaluation of a region/province's competitiveness, PCI should expand its focus to include factors like infrastructure quality, standard of living, and both micro- and macroeconomic stability. Additionally, PCI could benefit from diversifying its data sources for assessment. While PCI primarily relies on business surveys, ACI incorporates a variety of data sources, with a significant portion sourced from official statistics agencies and relevant ministries. Also, ACI utilizes surveys and interviews to gather insights into stakeholders' perceptions regarding provincial government performance, business conditions, and workforce situations.

3.2 Department and District Competitiveness Index (DDCI) is a proxy for the reflection of businesses' voice from the grassroots

Recognizing the significance of PCI program, Vietnam's provincial/city authorities have embarked on improving their PCI profile. Notably, the DDCI, a derivative index of PCI, was built and put into operation at local administrative levels. The Vietnamese government organizational structure is a hierarchical system comprising central, provincial, district, and communal levels. It also includes sectoral agencies (ministries/departments/divisions) across all levels of administration. At the central level, ministries develop national policies and regulations, while provincial departments implement these policies locally, guided by both provincial People's Committees and central ministries. Therefore, one province's governance capacity is the sum of efforts from many district-level units and sectoral departments under this management mechanism (see Figure 2).

Figure 2. The Vietnamese government organization structure and the relationship among public agencies



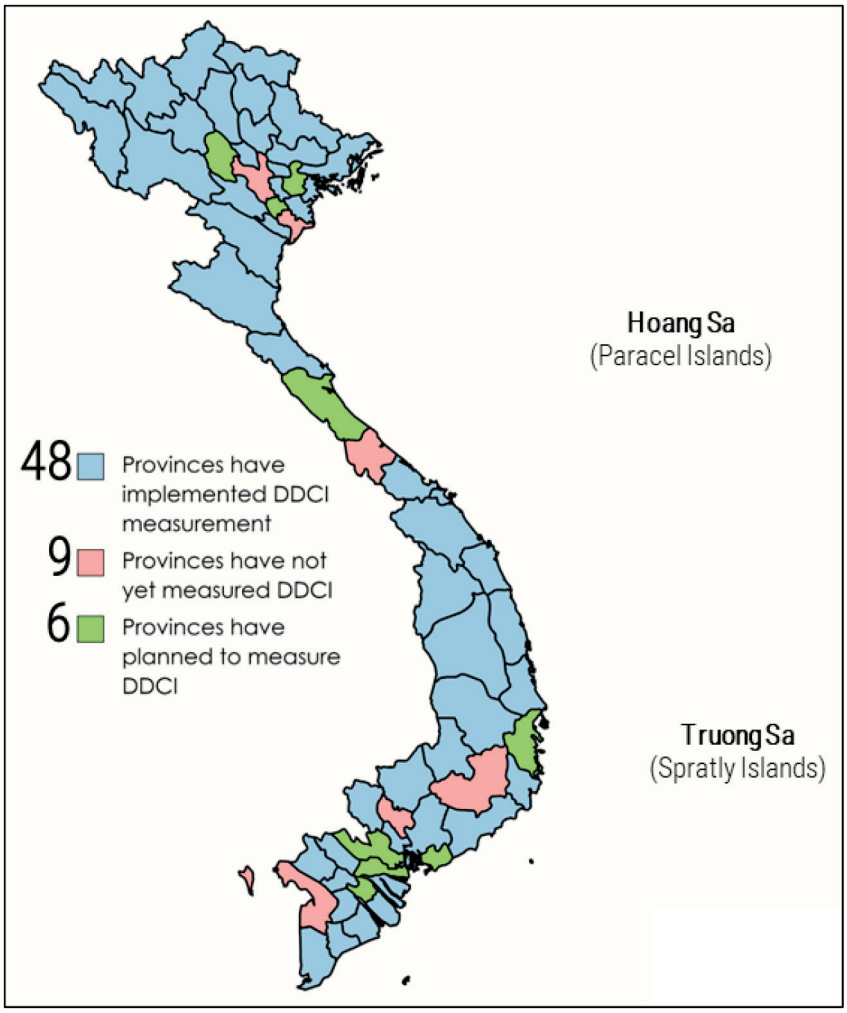
Source: Synthesized by authors

DDCI serves as a benchmark, encompassing various facets based on PCI's key principles. However, its application at the local level presents a fascinating prospect, allowing for a granular examination of factors that influence competitiveness within a specific subnational governance framework. DDCI was first deployed in 2013 in Lao Cai – a northwest province of Vietnam. By 2023, Vietnam has a total of 63 provincial-level administrative units and centrally-run cities. Among them, 76% of provinces/cities (48/63) have implemented DDCI program. Of the remainder, 9 provinces/cities have not yet measured DDCI, and 6 provinces have planned to assess DDCI (see Figure 3).

DDCI stands as a reliable metric based on the foundation of PCI, as mentioned in VCCI's guideline (Tuan et al., 2019), it aims at the following specific goals: (i) Building a friendly and responsive image of local governments for serving the local business community; (ii) Providing provincial and city leaders with an effective tool to timely monitor and direct to improve the quality of relevant units; (iii) Identifying good practices in administrative reform and economic

governance at the grassroots, from which they can be replicated in other units; (iv) Creating a widespread, transparent and reliable feedback channel for investors and businesses to contribute ideas to local governments in improving the local business environment.

Figure 3. Number of Vietnam's provinces/cities have measured DDCI by 2023



Source: Synthesized by authors

DDCI empowers the private sector to "grade" the capacity of local governments in creating the ease of doing business at grassroot levels (i.e. district and departmental level). This is an opportunity for businesses to raise their voices about the current situation of the place where they are investing and doing business. Based on businesses' voices, local governments can promptly adjust their core strategies and person-in-charge in supporting business activities. The nature of DDCI lies not only in its capacity to benchmark and compare competitiveness across departments and districts but also in its role as a catalyst for localized development. By facilitating a nuanced understanding of the unique characteristics and challenges within each administrative units, the DDCI empowers local authorities to identify priorities, formulate targeted interventions, and foster an environment conducive to economic dynamism.

It should be noted that DDCI is remarkable with the localized application of Vietnam's provinces/cities. In each province/city, DDCI program is built with different priorities, featured by a set of sub-indices of each place. Based on PCI's pillars, DDCI in most provinces/cities is developed with the following sub-indices: (1) Transparency and information accessibility,

(2) Informal charges, (3) Time costs, (4) Policy bias, (5) Business support policy, (6) Legal institution and public security, (7) Proactivity and Effectiveness of Department/District, (8) Roles of leaderships, (9) Land access and tenure (this index is only applied for districts).

However, in some provinces/cities, other sub-indices are being employed to localize the DDCI program in association with actual needs of that place. With nine sub-indices mentioned above, Dong Thap province has added to indicator of "Information technology application" as tenth sub-index (Dong Thap People's Committee, 2019). This has also been applied in Hai Phong and Quang Ninh cases, under the name of "Transparency and IT application" and "Transparency and digital transformation" respectively (Hai Phong People's Committee, 2022; Quang Ninh People's Committee, 2022). Also, in Ho Chi Minh City, the city government applied the sub-index of "Health and Environment" and "Green Growth" into DDCI 2023 assessment. One of those different cases can be mentioned in the application and localization of the DDCI program of Can Tho city located at the Mekong Delta region, which will be presented as a case study in the section below.

4 Localization of the DDCI Program: The Case Study of Can Tho City, Vietnam

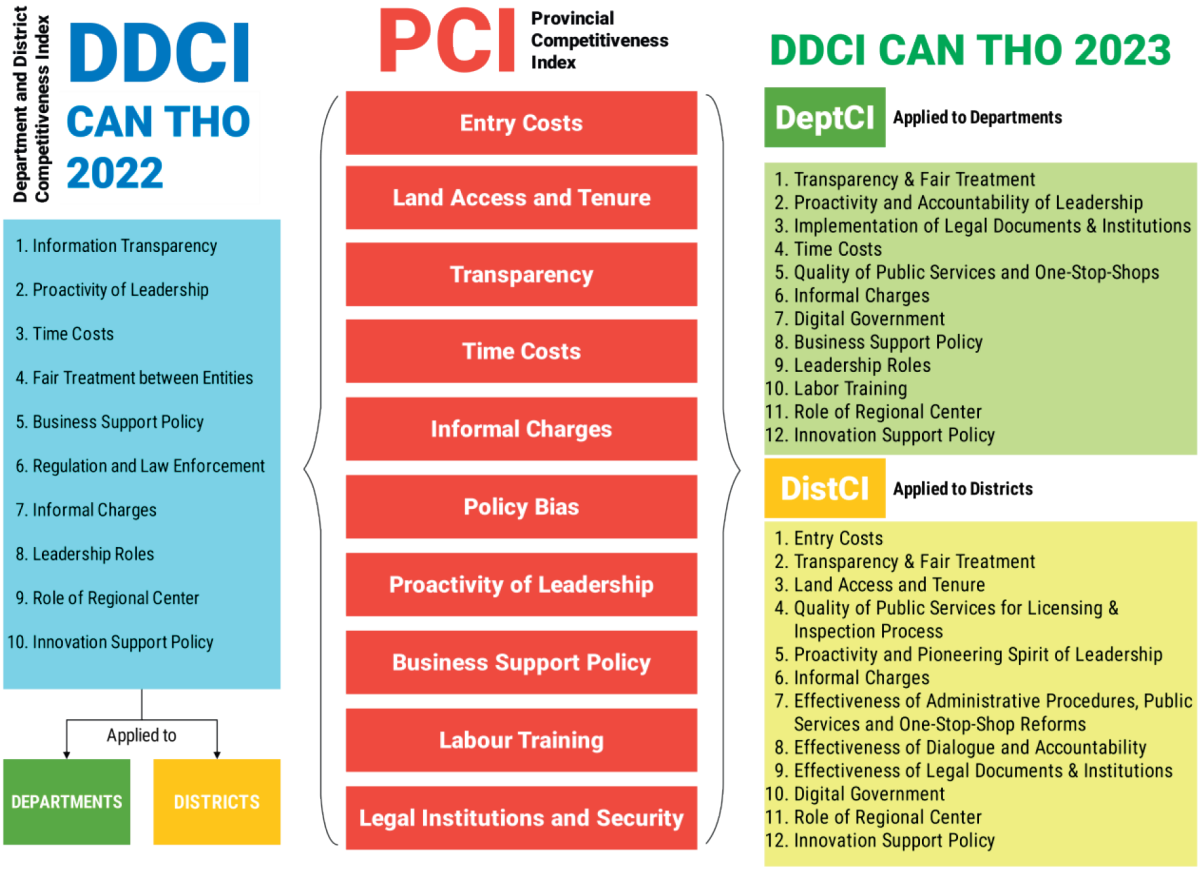
In the case of Can Tho city, we have compared the application of DDCI in the two pilot years, 2022 and 2023. The study reveals there are considerable differences in the application of the DDCI program in Can Tho when compared with other provinces/cities, and compared between years of application. It has noted the changes in quantity and contents of sub-indices, showcasing the authority of Can Tho's commitment to localizing DDCI program (Nguyen, 2023). Figure 4 visually represents the application of DDCI in Can Tho city in comparison with PCI program.

In the initial year of pilot application (2022), the government of Can Tho city developed their DDCI program with 10 sub-indices. In comparison with other provinces, Can Tho's DDCI program still largely relies on PCI, however, it also has taken some local priorities into account. First, with the role of the Vietnamese Mekong Delta, Can Tho city perceives the needs to take advantage of this geopolitical position into their strategy for investor/business attraction. Thus, the sub-index "Role of Regional Center" was added to evaluate the performance of departments and districts in taking advantage of the city's position. Second, aligning with the innovation strategies of Can Tho city (via Program for SMEs, innovative star-up and young talent period 2021–2030; and Program for Intellectual Property Development in Can Tho until 2030), the sub-index of "Innovation Support Policy" was introduced in DDCI measurement 2022. These two sub-indices are local governors' efforts to adjusting DDCI program for fit in well with Can Tho city's socio-economic context.

In the subsequent year (2023), the study observed substantial changes in the application of the DDCI program in Can Tho. Here are some major changes to the index. In terms of sub-indices, Can Tho's DDCI 2023 has introduced new sets of sub-indices with 12-pillar structure (see details in Figure 4). Unlike the previous year, when Can Tho applied a common set for both Departments and Districts, DDCI 2023 did not opt for a one-size-fits-all approach. Can Tho city has adopted two distinct sets for measurement (Nguyen, 2023), i.e. DeptCI for Departments and DistCI for Districts (hereinafter referred to as sister indices). This customization reflects an acknowledgment of the differing roles and responsibilities of departments and districts in supporting the private sector.

With the appearance of DeptCI and DistCI, the case of Can Tho shows the reasonableness of localization and ensures fairness between evaluated units. In two sister indices, the study

Figure 4. The application of DDCI measurement in Can Tho city



Source: Synthesized by authors

found that Can Tho city is paying a lot of attention to improving business support procedures, quality of public services, and strengthening key units responsible for business support. Notably, Can Tho also incorporated the "Digital Government" sub-index (also known as "E-Government") in DDCI 2023 program. Unlike Dong Thap province or Quang Ninh province, Can Tho implemented a strategy for E-government development into DDCI as a key sub-index. And the term "E-government" is more inclusive and broader than the application of information technology or digital transformation alone. This initiative sets Can Tho apart from other provinces and underscores the city's commitment to a comprehensive approach to digital transformation beyond conventional IT applications.

In addition, another priority of Can Tho is improving the quality of One-Stop-Shop's services, shown via the sub-index of "Quality of Public Services and One-Stop-Shops" in DeptCI and, sub-index of "Effectiveness of Administrative Procedures, Public Services and One-Stop-Shop Reforms" in DistCI. The One-Stop-Shop model represents a transformative and innovative approach aimed at enhancing the efficiency and effectiveness of administrative service delivery to the public. This model has gained significant recognition and support in Vietnam, where it has been officially recognized as a compulsory legal requirement for all public administrative levels (Blunt et al., 2017).

The One-Stop-Shop model is designed to streamline and simplify bureaucratic processes, making it more convenient for citizens and businesses to access public services. Instead of navigating through various government offices or departments, individuals and entities can avail

multiple services in one centralized location. This consolidation not only saves time and effort but also contributes to a more citizen-centric and business-friendly government. The quality of One-Stop-Shop model is likely to contribute to an improved business environment, increased citizen satisfaction, and a more responsive and accountable government. As Can Tho put the quality of One-Stop-Shop into DDCI evaluation process, this reflects the ongoing commitment to embracing modern administrative practices and fostering a favorable environment for doing business in localities.

In summary, Can Tho City's evolving application of DDCI reflects a thoughtful and context-specific localization effort. The city's proactive adjustments to the measurement program, considering regional priorities and dynamic changes over the years, exemplify a strategic approach to subnational competitiveness measurement. The introduction of sister indices and the emphasis on digital government further underscore Can Tho's commitment to fostering an environment conducive to economic growth, innovation, and effective governance.

5 Discussion

The longevity and effectiveness of the PCI in Vietnam compared to similar initiatives in other countries can be attributed to several key factors, including the Vietnamese political system, the incentive structure for local officials, and the active role of the VCCI. Vietnam's political system features significant decentralization, granting provincial governments substantial autonomy in economic management, which allows for tailored and responsive governance. This decentralization is coupled with a performance-based promotion system where the career advancement of local officials is tied to their ability to drive economic growth and improve the local business environment. The PCI acts as a transparent and public measure of their performance, creating strong incentives for officials to implement reforms that enhance provincial competitiveness. Furthermore, the PCI fosters healthy competition among provinces, motivating officials to outperform their peers and continuously improve their rankings.

The key point that must be mentioned here is the role of VCCI. The VCCI plays a crucial part in the success of the PCI. As a neutral and credible entity representing the business community, lending legitimacy to the PCI and ensuring that the evaluations are perceived as fair and unbiased. It actively engages with various stakeholders, including businesses, government officials, and academics, to accurately capture the business climate and reflect the concerns and needs of the business community. Additionally, the VCCI provides training and support to provincial governments, equipping local officials with the knowledge and tools needed to implement meaningful reforms.

Several other factors also contribute to the PCI's longevity and effectiveness. The index continuously evolves to include new and relevant metrics, ensuring its relevance and usefulness over time. The public availability of PCI data ensures transparency and accountability, encouraging local officials to take the index seriously and work towards improvements. Furthermore, the PCI incorporates feedback from the business community, creating a continuous feedback loop that ensures the index remains dynamic and reflective of actual business conditions. Compared to similar initiatives in other countries, the PCI stands out due to its strong institutional support, integration into the political incentive structure, and its role in fostering a competitive environment among provinces. These elements create a robust ecosystem that continuously promotes improvements in the provincial business environment in Vietnam.

On the DDCI, provincial officials use this spin-off index to fill in gaps in their knowledge

that PCI has not yet discovered, enabling them to identify and address district/sector-specific issues more effectively. By leveraging the detailed information from the DDCI, provincial governments can implement targeted reforms that enhance their overall competitiveness. This localized focus not only helps improve district-level performance but also contributes to better provincial rankings on the PCI, as improvements at the district level aggregate to create a more favorable business environment across the entire province.

Customizing the DDCI to suit the specific features and conditions of each province or city is crucial for accurately reflecting local concerns and development orientations. Unlike the PCI, which can be applied nationwide, the DDCI requires localization due to the varying natural conditions, socio-economic infrastructure, and development priorities across different localities. Each province or city possesses unique characteristics and faces distinct challenges, necessitating the adaptation of DDCI sub-indices to align with local needs. For instance, in the case of Can Tho, the inclusion of the "Regional Center Role" sub-index in the DDCI program reflects the city's strategic position as a hub in the Mekong Delta region. The development of the "Regional Center Role" sub-index in Can Tho's DDCI program involves consulting the business community to assess the efforts of local leaders in guiding industries, sectors, and localities. This sub-index recognizes initiatives that extend beyond Can Tho's administrative boundaries, aiming to influence and lead development across the broader Mekong Delta region.

By incorporating sub-indices tailored to the specific context of each province or city, the DDCI program ensures that assessments accurately capture local development priorities and initiatives. This localization enables policymakers and local leaders to make informed decisions and implement targeted strategies to drive sustainable development and enhance competitiveness within their respective regions.

6 Conclusion

The article underscores the importance of measuring competitiveness at the sub-national level in Vietnam, highlighting the significance of the PCI and DDCI metrics. PCI serves as a tool to gauge the capacity and quality of economic management across provinces and cities, while DDCI focuses on the efforts made by each province or city to enhance their PCI profile. Given that the governmental structure at the provincial and city level in Vietnam comprises specialized bodies and district-level authorities, the effectiveness of improving PCI or enhancing the management capacity and operational quality of a province or city heavily relies on the operational efficiency, service quality, and delivery of public services by these departments and districts. Consequently, implementing the DDCI metric at the departmental and district levels becomes crucial in elevating the PCI results of a province or city. By doing so, authorities can identify areas for improvement and allocate resources more efficiently to enhance competitiveness and overall economic performance. This approach acknowledges the interconnectedness and interdependency of various administrative units within the Vietnamese governmental system and underscores the importance of coordinated efforts to drive sustainable development and competitiveness at both regional and national levels.

Obviously, a robust economy is closely intertwined with vibrant and healthy business communities. The PCI and DDCI play crucial roles in providing evidence-based and data-driven insights for policymakers and local leadership to enhance the business environment. These metrics offer valuable recommendations for improving the business climate within provinces and cities. By analyzing PCI and DDCI results, policymakers can gain insights

into the effectiveness of their policies and identify areas for improvement. Additionally, these measurements serve as benchmarks, allowing local governments to compare their business and investment environment against national averages, providing a gauge of their competitiveness.

Furthermore, PCI and DDCI serve as channels for the local business community to voice concerns and highlight challenges within the business environment. By capturing the sentiments and experiences of businesses operating within a locality, these metrics offer valuable feedback to policymakers and local authorities. From there, subnational governments can use this feedback to refine and adjust existing policies and business support schemes to better cater to the needs of local businesses. This iterative process of evaluation, feedback, and adjustment helps foster a more conducive environment for business growth and investment, ultimately contributing to the overall economic prosperity of the nation.

In summary, PCI and DDCI metrics are Vietnam's remarkable efforts in improving institutions for a more favorable business environment. However, to prolong the effectiveness of these measurements, both PCI and DDCI must regularly update and adjust to better suit the country's development context. Future research can explore the effective of PCI and DDCI metrics in attracting business and investment at subnational levels. And a holistic analysis on standardized methods and weights for measuring PCI and DDCI metrics is utterly needed.

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