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The Role of Comparative Legal Research in The Development of Law

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ABSTRACT

Background: Comparative legal research is a field of law that has been abandoned over the decades for its lack of popularity as a concept due to the many controversies and criticisms surrounding it. It is a field of study that is only recently gaining footing in the legal profession with its recent resurgence and awakening of legal scholars and student to the fact that it may have some importance after all. **Objective:** This article therefore aims to show how comparative legal research has influenced the development of law from time immemorial to the present time and see how it will continue to do so in the future despite the pitiable situation it is in presently. It is also the aim of this article to show the efforts made by comparatists in making sure that laws are in conformity with the advancement in development around the globe by its main function of law reform especially in this era of globalization. The article, while concentrating on the impact comparative legal research has had on the development of law with special reference to law reforms in some modern nations, also analysis the manners in which comparative legal research has been used to solve some international dispute on commercial law when they arise**. Results:** The result of this research shows amongst others: that one of the aims of comparative legal research is to find solutions to a specific problem in a legal system by comparing with other legal systems having a similar problem or condition; that the methods used in comparative legal research are not original to the discipline and there is no one single method generally accepted by all comparatists; and that the concept of comparative legal research helps the law makers in solving quite a number of problems faced in the process of law making.. **Conclusion:** The article concludes that legislation and law reform are the main purpose of comparative legal research.

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INTRODUCTION

Over the years comparative legal research has been fighting for recognition. Some scholars regard the study as a fruitless and useless effort and have likened those who embark on the study as restless wanton bees on a fruitless journey. Comparative law has also been termed as "an amusing puzzle providing an opportunity to satisfy idle curiosity" (Rahmatullah, 1971). This can be said to have accounted for it slow development over the years. More so, the study itself has not helped the situation as there continue to exist a number of confusion and criticism here and there even among its scholars for example, comparative law has always been subject to competing claims of authorities in setting appropriate boundaries for its study. For this reason, comparative legal research have not been seen to serve any meaningful purpose to the law itself not to talk of its development, if anything, it is believed that it had in fact contributed to the controversies surrounding the discipline of law.

However, comparative law is slowly beginning to emerge from the mists of misunderstanding and prejudice in which it has for so long been enveloped haven undergone so many facets and levels, it is now being regarded in many quarters as a distinct discipline (Gutteridge, 1946). There is therefore a need to understand the purpose comparative legal research is serving. Answers should thus be provided to some important questions such as how comparative legal research should be carried out? How the foundational concepts of comparative legal research have been applied to solve some major problems encountered in the formation and reformation of law? In what ways the conceptual tools of comparative legal research has been used to solve and analyse comparative law issues when they arise in commercial law? Has comparative legal research affected Islamic legal system in any way?

In order to provide answers to the above questions and some many more that might be troubling the minds of many comparative law students as well as to fully and effectively deal with this topic, the article has been divided into two main parts. The first part deals with the concept of comparative legal research and the different

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stages of its development. Also how it has developed shall be discussed starting from the earliest period up till the present time. The method and methodology used in engaging in comparative legal study shall also be discussed by explaining the basic prerequisite needed for conducting comparison, highlighting the major steps to be taken in the process and explaining a number of skills required to be acquired by a to be comparatist. The second part will focus on the influence of comparative legal research on the development of law by analysing how comparative legal research have influenced generally legislation and law reform and specifically on the area of commercial law.

MATERIALS AND METHOD

The materials used in this study are in three major categories. First are those materials that dealt with the concept of legal research such as Merskey and Dunn (2002) who defined legal research as the "process of identifying and retrieving information necessary to support legal decision making. In its broadest sense, legal research includes each of a course of action that begins with an analysis of the facts of a problem and concludes with the application and communications of the results of the investigation". Research itself has earlier been defined as "an organized scientific investigation used in solving problems undertaken with the objective of finding answers and or solutions" in the work of Rose and Imy. (2005). With regards the meaning of comparative legal research, this has been giving meaning to in the work of W.J. Kamba (1974) where he defined the concept of comparative legal research as "[I]t means the study of and research in, law by the systematic comparison of two or more legal systems; or of parts, branches or aspects of two or more legal systems".

Second are materials on the development of comparative legal research such as the works of Sherman (1932) which traced the development of the concept to the ancient pre-war period. According to the study, in the ancient world, Roman law was distinctively influenced by the Greek law. It is further said that during this time only Greek Law had developed into a major legal system and so many states were being influenced by it including the Roman Empire. For example the popular Roman law X11 tables imitated the Greek legal institution. The classical period was said to be period when comparative legal research or inquiry influenced the further development of the 'jus gentium' (Sherman, 1932). Example of such comparative study is 'Lex Dei' which is considered as one of the earlier known works on comparative law (Sherman, 1932). The development of the concept of comparative legal research was also traced to the middle ages which was said to have witnessed the establishment of some national laws (Sherman, 1932). It is believed that it was during this period that the principle of personality and territoriality of law evolved. These principles were in a way related to the idea of locally uniform law for each region and nation. Therefore Roman and Canon law became the major law at this time. However, there was no comparative study during this period because national laws were only in the embryonic stage and so scholars were more interested in and made use of these laws to develop their respective national laws (Sherman, 1932).

Furthermore, the development of comparative legal research was traced looking at the 16th century also known as 'The Renaissance' which witnessed the production of a few comparative studies. These were however confined to the laws that were in existence in the same country. For example, the study of comparative law research was occurring in some European countries where Roman and Germanic laws were being compared. In addition there was the comparison between the Roman law and the native systems as well as the common and canon law. Examples of such work is the book entitled "doctor and student" written by St. German and the treatise of Martinez de Oluno. Thereafter came the 17th and 18th century where the interest in foreign and comparative law was rising gradually in countries like France, Germany, England and the United States because during this period, there was no much of comparative study as national law was growing rapidly. Therefore, there was the need for scholars to focus more on the study of their respective national laws and Roman law books became authorities and embodiment of pure legal reason (Sherman, 1932).

According to Legend and Munday (2003), the great comparatists of the pre-war period are people like Raymond Saleilles, Edouard Lambert, Fredrerick Pollock, Roscoe Pound, Ernst Rabel, Karl Llewellyn, Seldon, Grotious, Vico and Montesquieu. These men made use of comparative material on a large scale and for various purposes. To them comparative law was a prudent common sense with clear consequences (David, 2003). There was an inquiry as to what had remained the common core of the different national codifications thus bringing about comparative law. The post war period was said to be characterised by the drive for a national unification and simplification of law. 1900 is termed 'The Year of World Exhibition' because the 1st World Congress was held in this year at Paris, which had in attendance nine (9) Professors from different parts of the World. Their main objective was to see how law can be used in order to foster peace and unity among the different legal systems around the world. The nine professors also believed in the possibility of having a law that will serve as a neutral point of reference. Here they proposed that there should be a legal model that will be the central point of reference for every country in drafting their specific laws. These laws however are not binding like in the case of charters and conventions, for example the UNCITRAL law of Arbitration which is the model law for arbitration law. However the question remains, whose law will be the legal model and on what basis will a particular law be chosen as a model? The year 1950 up to 2000 witnessed the coming into play of the functional

approach and they took over the comparative law process. They based comparison on 'functional equivalents'. Therefore, the post-war period witnessed a paradigm shift in the approach to comparative law which was different from the old approaches. During this period efforts were geared towards the harmonisation of laws and the possibility of having a universal law was looked into. The universal law was to be the law that will be binding on every country and so they came up with charters and conventions for example the Universal Declaration of Human Right (UDHR). This however created a number of issues and throws doubt on the possibility of having a universal law. Another shift in the approach to comparison during this period was the idea of legal families. This period witnessed the handing over of colonies to the indigenous people and so even though they were independent they still maintained ties with their war loads or colonial masters. Therefore the idea of legal families came up and so countries that were colonised by UK continued to use the common law system and those of the civil law origin did the same. Lastly, the period witnessed the development of some interdisciplinary work where it was proposed that comparative law should not only focus on law but should look at other disciplines like sociology, politics and culture. This however did not develop into a coherent framework for it operation. Different factors could be said to have affected this study especially in this period ranging from scholarly curiosity to political motive and even world trade.

Third are the materials on the methodology of comparative legal research. The concept of comparative legal research is said to have no method of its own as its scholars are said to have borrowed methods like historical, structural, functional, empirical, statistical, thematic and evolutionary from other disciplines (Esin, 2006). As a corollary to this, various attempts have been made by some comparatists to come up with a method by creatively applying these methods to the problems of comparative law research such as Schmitthoff (1939). Some basic prerequisites that need to be fulfilled before comparison can begin. The first prerequisite is that topics under examination must be comparable. It will be out of place to try to compare the system of Qada' under Islamic law with the law of contract under common law. It is the unity of the problem that warrants the possibility of comparison. Apart from this, the topics under comparison must extend to the same evolutionary stage and of course there must at least be two territorial systems before it can be called a comparative study. The second prerequisite is that, regards must be given to the legal and social background of law. That is to say, there must be a connection between the legal problem and the general background of law. A comparative study of law must take into account the totality or, the physiognomy of the legal systems to which the research extends. For example, the English Institution of will with the French testament cannot be successfully compared without taking into account the effect which the English settlement produces after the death of the settlor (Schmitthoff, 1939). It is equally important to determine the connection of the legal problem with the general background of the law because sociological influences of a non-legal character, such as history, economics, ideology, may lend a particular colour to the problem under examination. The third and final prerequisite is that an analytical classification of an impartial and purely scientific character must be applied to the topics under investigation because without such analysis, the accumulation of facts would be inaccessible and devoid of interpretation (Schmitthof, 1939).

Doctrinal legal research is the method employed in this study as it analysis the role of comparative legal research in the development of law generally and commercial law specifically. This is important because there is the need to identify the various primary and secondary sources that are relevant to the theme of this research. Further, the exposition of the rules governing a particular legal category, analysis of the relationship between these rules, explanation of areas of difficulty and prediction of future developments is the main aim of a doctrinal methodology.

Results:

This research shows that Comparative Legal Research is an organised study of law in a comparative manner undertaken with the objective of finding answers to legal problems or issues. It is further found from this research that the aim of conducting any type of research is to find answers to research questions or finding solutions to a specific research problem. It therefore means that the aim of comparative legal research is to find solutions to a specific problem in a legal system by comparing with other legal systems having a similar problem or condition. This can further be said to be the practical aim of the comparative legal research as it is seen by the functionalists approach as against the culturalists and the juxtapositionists.

It is further found in this research that if we are to trace the development of comparative research then we can safely divide it into two major periods: the pre-war period and the post-war period. The pre-war period can further be subdivided into the ancient world; the Middle Ages; and the renaissance; the seventeenth and eighteenth centuries. The post-war period on the other hand starts from the end of the World War II up to the present time.

It is also found that the methods used in this study are not original to the discipline and there is no one single method generally accepted by all comparatists. Although the major type and most common methodology used in comparative legal research is the qualitative methodology, there are some situations that will call for the

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use of the quantitative methodology. For example when there is the need to survey the responds of a population to a certain new law, the methodology to be used will definitely be the quantitative methodology.

Finally and most importantly, this research shows that legislation and law reform are the main purpose of the concept of comparative legal research. It is found that the concept of comparative legal research therefore helps the law makers in solving quite a number of problems faced in the process of law making.

Discussions:

Methodology of Comparative Law:

The discussion of this research begins with the methodology of comparative law. It is observed that since comparative research is carried out for a number of purposes and the methodology or techniques used can differ accordingly, there cannot be said to be a standard method for the study. However, the basic steps to be taken are what this article attempts to explain. The first step is choosing the scope of comparison either macro or micro, choosing and identifying the concepts and choosing the legal system that are to be compared. For example a comparative researcher may wish to compare the concept of *Stare Decisis* under Common and Civil legal systems; this is a micro-comparison. It is also at this stage that a comparatist decides on the concept or the legal system he wants to carry out his research on.

The second step is the descriptive phase; here a comparatist will describe the concept already identified in the 1st phase. Hence the concept of *Stare Decisis* will be described together with all its components. This also includes analysing the concept individually in the two legal systems and analysing the legal systems themselves by assessing the data gathered in the first stage both from the knowledge gathered through cultural immersion and stepping back to assess from a strangers perspective. This will give the study some credibility and accuracy as is required under the principle of research ethics.

The third step is the identification or classification phase where the researcher identifies the differences and similarities between the legal systems under comparison. Here what the researcher will be primarily concerned with will be to explain the areas in which *Stare Decisis* differ in meaning and the point of its convergence under the common and civil law legal systems. This can be done by posing questions like what is the basis for their similarities and how can we translate this in the two legal systems. Same questions will be asked in order to ascertain and determine their differences.

The fourth step is the directly comparative phase which consists of the formulation of interrelationships involving political, economic, cultural and other social phenomena as tentative hypothesis. At this stage, the comaparatist should explore the reasons behind the differences and similarities observed in the previous stage and evaluate their significance within the legal systems.

The fifth and the final step is the confirmation phase which is the testing stage. Here the researcher will test his research result against his hypothesis and come up with a theory. This is done by first assembling the results of the investigation which has hitherto been recorded at the earlier stage. Usually more questions will be posed here such as what is the significance of the study and how has the investigation been able to shed more light on the operation and meaning of the legal systems compared?

From the foregoing what we have after following all these steps is an effective comparative legal research which very much depends to a large extent on the skills of the comparatist in question. This therefore shows the importance and need to acquire the skills of a comparatist as comparative legal research entails the evaluation of law clearly, objectively and neutrally. A researcher therefore needs to be able to identify the underlying concepts, beliefs and reasons behind a law clearly. Laws usually don't just come up without reason; there is always a reason behind its formulation which is known as "the legal mind or framework of legal philosophy that helps drive the structure of law" (Edward, 2009). In addition to this a comparatist must be objective while deducing this concept as against being biased. What is meant by this is that since law is culturally immersed, in the process of deducing the concepts underlying the law, a comparatist might be tempted to import his values into other people's law. Though this might prove a little bit difficult it is one of the ethical principles that all researchers must try to apply in their various study.

Another equally important skill to be acquired by a comparatist is the skill of translation. This is because "translation illuminates connection or disjunction among cultures yielding valuable insights" (Edward, 2009). A word in one legal system may mean another entire different thing in another legal system for laws as noted earlier are culturally immersed. This therefore calls upon the comparatist to explain the underlying context of the culture in which the idea or word was found. Furthermore this skill requires the understanding of the multiple semiotic systems and linguistic contexts that situate ideas found in a particular legal system and determining how to adjust and transfer over one particular worldview into that of another.

If a comparatist succeeds in acquiring all the above mentioned skills then the task of comparative legal research can be carried out effectively and this will in turn ensure that the study performs it role perfectly. The result gained from the comparative legal research can then be utilized in different ways, the most significant of which is the improvement of one's own legal system or law reform. This leads us to the discussion on the role

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that the Concept of Comparative Legal Research has played in the development of law, which shall be discussed in this next part.

Role of Comparative Legal Research – in the Development of Law:

One prominent significant impact Aristotle had on comparative law was his effort at surveying the constitutions of the then known world with a view to its improvement or perfection. This suggests that right from the time of Aristotle, the element of law reform has been in existence. It is this element that thus forms the main role of comparative law; legislation and law reform or improvement of the law as suggested by some comparatists. According to Maine (1876):

Universally admitted by competent jurists that, if not the only function, the chief function of comparative jurisprudence is to facilitate legislation and the practical improvement of the law…by the examination and comparison of laws the most valuable materials are obtained for legal improvement. There is no branch of juridical enquiry more important than this.

In the same vain, David Kennedy in his book entitled "the methods and the politics" stated while commenting on the political era of comparative law in the early period said:

Comparison at this period was of different legal systems and was part of a wide variety of diverging political projects such as efforts to introduce particular legislative changes in one place by reference to laws in place elsewhere, efforts to promote commercial opportunities in far-flung locations by suppression of local laws (the masters of the comparative canon) (Legend and Mundey, 2003).

(Emphasis is mine)

Therefore, as laws just don't crop up from the moon, there is the need to know where the legislatures derive the laws from. The sources of law meant here are not the generally known ones, for example sources from practices of the judges or from customs; but rather it is the manner in which law makers come about forming or amending laws. In other words it is the real sources and mechanisms involved in making laws that is of concern here. Once it is established that there is usually a form of comparison between two or more legal systems before legislators end up with laws, then it will mean that comparative legal research is one of the sources of law (Legend and Mundey, 2003). This will then indicate the important role comparative legal study has played on the development of law. An illustration of the above will be that if the source of the Twelve Tables of the Roman law is the Greek law, comparison of Greek law with Roman law therefore automatically becomes a source of Law.

How then does comparative legal research help the law makers in making laws? Usually, law makers are faced with quite a number of problems in the process of law making to which resort is made to the study. Some of the problems faced by law makers are:

1. ***In the creation of new rules and solutions:***

society at large is usually faced with some problems at one time or the other. It is the job of the government via its law making agent to find new rules and solutions to such problem. For an effective solution there is usually the need to look beyond the immediate country because it is better if the solution is derived from other legal systems that had a similar problem in the past. This will be more effective as the present country that wants to adopt such a solution already have it "tested and trusted" in that foreign country and can tell if it is going to be effective or not. This is where the comparatist comes in, his job is to compare the current country's legal system with the foreign legal system that has the solution and see how effective that solution is going to be to the current country's situation. For example, the law relating to Islamic Finance in Nigeria was adopted from a number of countries already practicing Islamic Finance for instance Malaysia. The success of the programme (Islamic banking) would have been examined by the comparatists employed by the Nigerian law makers (the Nigerian Government) to see if it will also be effective in Nigeria. Perhaps it is based on this important role comparative legal research plays that Tallan (1969) made a remark thus:

[A]ssuredly, to resort to a foreign model is not an innovation…its aim is not to find a foreign institution which could be easily copied, but to acquire ideas from a careful survey of similar foreign institutions and to make a reasonable transportation of those which may be retained, according to local conditions.

Therefore in the process of employing the above role of comparative legal research, the law maker and the comparatists need to be more careful and note the words of this great scholar "reasonable transportation of those which may be retained, according to local conditions". This simply means that from the example given earlier, going to Malaysia to import their Islamic Banking laws is not just what should be done but the law makers have to move a step further to ensure that whatever is to be brought in conforms to local conditions of Nigeria and Nigerians. The result could be devastating if the local condition of the country that wants to import laws is not looked into.

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*2. **Modifying or abolishing existing laws:***

law making is an ongoing process, just as the society and world keep changing so also do laws. Modification of laws becomes desirable when a reason or the cause for which the law was created in the first place no longer exist. For example the law abolishing slave trade in Africa became obsolete years back and has since been abolished and replaced with laws prohibiting human trafficking and related offences. Laws generally have a life span and so when they have served their purpose they need to be abolished and replaced with new and better ones. It is perhaps with this in mind that Morrow made this statement:

[A]ny intelligent group of draftsmen, states morrow, charged with a task of any importance, will consider similar legislation in other states, and perhaps in England, and will not continue their efforts necessarily to a restatement of what they conceive to be 'the law' of their jurisdiction (Morrow, 1951).

However, it is not in all cases that the legislatures are to make such moves towards reformation, it is equally the duty of comparatist to suggest to the law makers that a certain law needs to be changed with a better one having regard to the study and comparison carried out on other legal systems. Without this kind of study the country in question will not be in tune with the development going on in the world. In fact International unions might not accept such a country as a member and the country might even get black listed if certain laws or rules are not formulated. For example, Nigeria was blacklisted by the United Nations for not having the Anti-Money Laundering and Anti-Terrorism Financing Act (AMLATFA) a few years back until it finally had the Act formulated.

Furthermore, a once effective law will one day become less effective owing to a number of factors. Changes in government, invention of new technology, results of researches are just some of the factors that can contribute to the need to abolish some existing laws. Change in government is an important factor that calls for the abolishment of laws in most African Countries including Nigeria. This can be attributed to the power tussle that exists between the multiple parties available in such countries. A perfect example to this can be seen in States of Nigeria where we have multiple party systems, after each four (4) years a new government comes in and if this government is from a different party then a number of laws and policies made by the previous government/different party will be abolished. They will simply claim that it is a bad law that needs to be replaced.

In addition, new researches and advancement in technology may call for the abolishment of certain existing laws. This is in order for the laws to be at par with the changes going in the society and the world at large. Researchers may also come up with new findings that may warrant the existing law being abolished. It is important to note further that law reforms do not always begin with the legislators as has been stated by a scholar 'most problems when noticed become the subject-matter of comparative study in an anticipatory sense' (Gutteridge, 1946). Usually a good managed government will employ the services of comparatists to embark on comparative legal research and come up with solutions to certain problems. By research grants a number of laws have been passed and are always very effective at the long run. However, it is not in all situations that government is willing to start of inquiries of this nature, in most cases private enterprise, academicians and even research students are at the frontiers of such inquiries. For example the issue of the Shari'ah Advisory Council for the financial bodies and Banks in Malaysia was hitherto limited in its scope until a lecturer in the field wrote about it, now the CBN have come up with a regulatory guideline and have since enlarged its scope. Such examples are abound which shows that comparative research has really put the law reform agencies on their track and have shown that the way to a successful legislation and law reform in any civilised nation is through comparative legal research. It is therefore true that comparative inquiry should be seen as an important preliminary to most legislations and law reforms.

3. With regards to the technique of drafting or formulation of legislation:

the application of comparative legal research here is more limited and tends to be confined to systems which are closely related and operate in countries which have similar socio-economic conditions, for example legal systems of the "older " countries of the British Commonwealth are more likely to draft laws in a similar manner. It is one thing to know what law to formulate it is another to know how it is to be couched. Here looking at other similar legal systems will help the law drafters in knowing what words and terms to be employed in drafting the new laws, and this of course needs the employment of comparative legal research. For example some model laws are specifically drafted for this purpose through the process of comparative legal research like the law on Arbitration known as United Nations Commission on International Trade Law-Arbitration Rules (UNCITRAL). Countries wishing to have laws on arbitration usually refer to this law to know how to draft their specific laws. Apart from this model law, there are situations where some legislatures of some country actually copy verbatim the laws of other countries. An example is the Company's Act of Malaysia which is said to have been copied from the Australia's Company's Act. In this kind of situation, the law makers need to be abreast of any development and change in the Act of the foreign country so that they can update that of their country as well.

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*4. **The question of practicability and enforceability of the proposed law:***

laws becomes useless if they are not enforceable because what actually makes law to be properly so called is its level of applicability to the society it is meant to govern. It is only through comparative legal research that law makers will be able to know if the law to be adopted from another legal system will be practicable and enforceable. Therefore comparative legal research provides a law maker with the skill and tool of knowing what law to avoid and what law to formulate. For example a law on the ban of same sex marriage will be tasted for practicability and enforceability if there is already in existence such law in another country on the same issue. Practicability means how the law is going to affect the lives of the people practically and enforceability means how the people will respond to the law and if it will be obeyed by the subject it is meant to govern. It will be unwise for a country to adopt a law that has been seen to be ineffective in another country just for the sake of having a law because as mentioned earlier the main essence of law lies in its effectiveness and practicability without which it will be of no use. This is why Comparatists are always expected to keep abreast of the development of law in other areas and legal systems since the study entails studying the laws of other legal systems. This will usually give them a first-hand information to advice the law makers as to what laws to avoid and why it should be avoided.

Therefore, if from the above, comparative legal research successfully solves the problems faced by the law makers through the comparatist, then it can be concluded that legislation and law reform is the main purpose of comparative legal research.

Role of Comparative Legal Research on Commercial Law:

The importance of comparative legal research has increased considerably in the present age of internationalism, economic globalisation and democratisation. Legal isolationism can never be possible because no nation -no matter how strong- can turn its back upon the law and institutions of other nations (Rahmatullah, 1971). The life breath of trade is the interchange of goods and diversity of laws affects the mode of the interchange and most often serves as an impediment to its effective attainment. No human society can survive without trade as no country is an island of its own. For example countries without oil need to purchase from countries with oil. These countries in most cases would have different laws or legal system. For example what law is to guide the transaction between an African merchant and a German merchant, and in case of dispute how do they resolve it. This implies that laws of different countries need to be understood and this is where comparative law comes into the picture.

With the world-wide trade also known as international trade, there occurs among different countries a more complicated situation, for instance, a transaction or trade between a Sudan man and an English man carried out in France for the sale of goods which is to be shipped in the Argentine ship for carriage to a Nigerian port. Here it can be seen that more than one country is involved. Therefore in the event of dispute, the first issue that will arise for determination is the jurisdiction of the court to hear the case and secondly, the law to be applied, whether it should be the law in Sudan or France or that of Argentina or perhaps that of Nigeria. For example in the case of ***Libyan Arab Foreign Bank v Manufacturers Hanover Trust Co*** *(No 2)* there was a dispute as to which law to apply and the court held that two laws will apply. This poses a great problem as even if these issues are eventually resolved, the problem of enforceability of the court's judgment will still arise. Here lies the problem.

This is definitely within the purview of a comparatist and comparative legal research as a whole which in turn calls for the understanding of the issues arising from the interaction of different legal cultures in the practise of international commercial law There is therefore the need to identify how the conceptual tools of comparative legal research can be used to solve and analyse the issues above when they arise in commercial law. One significant area where comparative legal research has played an important role in the development of commercial law is in the establishment of neutral arbitral bodies. Examples of such institutions/bodies are the International Chamber of Commerce (ICC), International Centre for Dispute Resolution (ICDR), American Arbitration Associate (AAA) and the London Court of International Arbitration (LCIA). The resolutions of disputes occurring in the international field are widely conducted under the auspices of these bodies. It is said to be faster, more efficient, time saving and widely accepted by all parties.

Another significant role of comparative legal research in the development of commercial law is in its effort at standardizing international sales contracts for example, the UNIDROIT Principles of International Contracts and the United Nations Commission on International Trade Law- Arbitration Rules (UNCITRAL). These rules have been used in harmonizing and unifying the various diverse rules and laws of the different nation state and also serve as a model for those that are yet to have it as a law.

From the forgoing we can see that the result of comparative legal research when applied to commercial law is severely practical. Since the value of comparative legal research can only be seen in its true perspective, an effort is made to visualise its operation in dealing with the problems which arise in connection with the various forms of human activity like international trade in which law is called upon to take a part. Thus the value of comparative legal research seems to be beyond doubt in this instance. This has also in a way reduced the

importance and relevance of domestic legal systems for international commercial law as their relevance has declined considerable over time.

Conclusions:

This article has presented in a succinct way the relevance of comparative legal research to law especially in the area of its development. This is not-withstanding the fact that it has been seen to be useful in some other areas like in court for judges' interpretation of new cases, in academics for the exploration of foreign legal systems and better understanding of one's legal system. This article argues in line with the view of some scholars that legislation and law reform is the main purpose of the concept of comparative legal research. The specific analysis of its influence on commercial law is treated in order to show the various ways in which the tool of comparative legal research has been employed to solve disputes when they occur in the international arena. In sum, regardless of the state that comparative legal research is in presently, its influence and impact can be seen in the development of law that makes it difficult for Legislators to function well without the help of the Comparatist.

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