



AKUNGBA LAW JOURNAL

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Assessing Contraceptive Use and its Impact on Population Control in Nigeria

SUNDAYAKINLOLU, FAGBEMI*

Abstract

The rapid population growth and economic expansion the world over in the last decade have made the management of population increasingly important necessitating detailed studies on use of contraceptive to control population growth. The focus of this paper is an attempt to assess contraceptive use in Nigeria and its impact on government efforts to control population growth. The paper examines the question of human rights vis-à-vis contraceptive use and the Nigerian National Population Policy. The analysis shows that lack of education and ignorant are the major factors contributing to the general apathy to the use of contraceptive and compliance with population policy to control fertility rate in Nigeria. The paper further discovered that the extant National Population Policy is ineffective due to the impact of human rights and the principle of voluntarism and social responsibility upon which the National Population Policy is predicated. The paper, therefore, recommends, amongst others, the use of education to create awareness on contraceptive usage and review of the extant population policy to pave way for the promulgation of direct law on population control with sanction to compel compliance.

1. Introduction

The concern for population control mechanism has added a new dimension to the population problem and has raised the question of what directions the national population policies and law should now take? Of course, during earlier human civilisations, an issue of high value to human societies was the ability to reproduce and to have as many children as possible. The larger the number of children a woman procreates, the greater the level of respect for the individual. However, in this modern era, many people look beyond subsistence living and prefer a more leisured, relaxed life and hence increasingly fewer societies are holding on to this perspective of life. This has led to an increased demand for scientific means for controlling birth rates.¹

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¹ Anaman, K.A. & Okai, J.O.A. "Extent of Awareness of Birth Control Methods and Their Use by Women in a Peri-Urban Area of Accra, Ghana. (2016) 7 *Modern Economy*, 39-54 at 39.

Also due to population challenges and debates on the mechanisms for population control, the assessment of state policies for population control should now take the centre stage to take into account not only explicit population policies and governmental measures that directly affect the birth rate, as in the case of policy for population control, but the need for the encouragement of contraceptive use and a convocation of direct statutory provision that will have significant impact on population growth. Traditionally, methods for population control are abortion, contraception and sterilisation.² Contraceptives have been used in several forms for thousands of years throughout human history. A report by the United Nations Department of Economic and Social Affairs in 2011 indicated that the prevalence rate of contraceptive usage in the world increased from an average of 49.2% in 1980 to 62.7% in 2009. Sub-Saharan Africa which recorded an average prevalence rate of 11.2% in 1980 had its prevalence rate increased to 21.8% in 2009.³ However, many African women who need to avoid pregnancy and plan their families lack adequate access to modern contraceptive services. Modern contraceptive services are essential to women so that they can determine the size of their families, regulate childbirth and help to reduce maternal deaths and illnesses.⁴

According to Asante-Sarpong,⁵ a striking importance of birth control is the extent of pressure that large populations exert on economic and social facilities of a country. High levels of population create major limitations and constraints on economic progression and the ability of a country to make the necessary provision for the livelihood improvement of its citizens and the achievement of its national development targets and visions. For example, the population growth rate of Nigeria has made the population issue in Nigeria a rather disturbing problems. As at date, the population growth rate in Nigeria ranges between 3 to 3.5% per annum. Statistics

² These methods are otherwise called direct coercive population control methods and passive methods. Coercive methods are defined as methods that force the agent to decrease the number of children. Example includes China's one-child policy. Passive methods are defined as methods that allow the agent to choose the number of offspring, but still limit population growth. Examples include family planning, contraceptives, and voluntary abortions. Furthermore, methods of coercively increasing death rates to limit population growth were implemented by the ancient Greeks, who practiced infanticide, the killing of unwanted children. Eskimos partook in similar methods by practicing euthanasia on the elderly, who were no longer able to contribute to society. See generally, Bayles, M. D. *Ethics and population*. (Cambridge, MA: Schenkman Publishing Company Inc., 1976) 87; Hardin, G. "The tragedy of the commons" (1968) 162(3859) *Science* 1243-1248 and David, L.R "The ethics of controlling population growth in the developing world" (2010) 3(1) *Intersect* 70.

³ Anaman, & Okai, *op cit.*, 40; United Nations Department of Economic and Social Affairs Population Division "World Contraceptive Use 2010" (United Nations, New York, 2011) 45.

⁴ Darroch, J.E., "Trends in Contraceptive Use." (2013) 87 *Contraception*, 259-263; Darroch, J.E. & Singh, S. "Trends in Contraceptive Need and Use in Developing Countries" (2013) *Lancet* 56-62.

⁵ Asante-Sarpong, H., "From Their Own Perspective: Perceptions of Women about Modern and Natural/Traditional Methods of Contraception in Koforidua & Asokore in the Eastern Region of Ghana. (2007) *Norwegian University of Science and Technology, Trondheim*. 67.

from the 2006 census indicated that the annual exponential population growth rate in Nigeria, between 1991 and 2006 census exercises in the country is 3.18 percent. Recently, the population of Nigeria was estimated to be 184,635,279 million people, while urban population has increased from 38,150,000 in 1989 to 125,343,000 as at December, 2015, with subsisting fertility rate standing at 5.7%.⁶

Nigeria was also listed among the ten largest countries in the world. The list put Nigeria's population, as the seventh largest in the world with a projection that Nigeria population will surpass that of the United States by about 2050, at which point it would become the third largest country in the world.⁷ This high population growth puts pressure on infrastructure and public resources, especially in major cities such as Lagos and Abuja, the capital city of Nigeria just to mention few.

The contraceptive prevalent in the country is very low and inadequate most especially among illiterates and women in rural area to check population growth. In view of population growth rate in Nigeria, it is pertinent for government to set machinery in motion to encourage contraceptive usage and enforce compliance with population policy to checkmate population growth. This paper attempts to assess contraceptive usage and the provisions of the Nigerian National Population Policy and their impact on population control. To fulfill this mission, the paper is divided into five parts. The first part is this introduction. The second part is an overview of contraceptive usage in Nigeria. The third part examines the effectiveness of Nigerian National Population for Population Control. The fourth part discusses the impact of Human Rights on the use of contraceptive and enforcement of population policy. The fifth part concludes the paper with recommendations.

2. An Overview of Contraceptive Usage in Nigeria

Contraceptives are devices or medications designed to prevent pregnancy by either suppressing ovulation, preventing sperm from passing through the cervix.⁸ Contraception is temporary prevention of fertility while sterilization is permanent prevention of fertility. However contraceptive methods are said to be methods that help women avoid unwanted pregnancies. They include all temporary and permanent measure to prevent pregnancy resulting from coitus.⁹ According to

⁶ United Nations, Department of Economic and Social Affairs, Population Division (2015). *World Population Prospects: The 2015 Revision, Key Findings and Advance Tables*. Working Paper No. ESA/P/WP.241. p. 4

⁷ *Ibid*.

⁸ Nothando Nokuthula Gama. "The Effects of Unplanned Pregnancy on Female Students of the University of Zululand. (2008) *A Dissertation submitted in partial fulfillment of the requirements for the Master's Degree in (Community Work) in the Social Work Department (Faculty of Arts) at the University of Zululand*. 8; Furedi, A. *Unplanned pregnancy: Your choices: A practical guide to accidental pregnancy*. (Oxford: Oxford University Press, 1996) 108.

⁹ Jones, H.W. *Contraception*. In Williams and Wilkins Baltimore, (11th edition, USA: Novaks Textbook of Gynaecology, 1988) 8; Park, K. "Demography and Family Planning" In Parks. *Textbook of preventive and social medicine India* (16th Edition, India: M/s, Banarsidas Bhanot and Co., 2002) 325-328.

Story¹⁰ barrier methods of contraceptives include methods that physically and chemically prevent pregnancy by blocking the passage of sperm into the uterine cavity. In sum total, contraception or birth control method prevents pregnancy by interfering with the normal process of ovulation, fertilisation, and implantation. As far back as 2012, Nigeria was classified the sixth most populous nation in the world.¹¹ Similarly, the estimated population of Nigeria as at the end of 2015 was 184,635,279 million with a projection that it will reach 285 million by 2050.¹² Also, there are an estimated 35 million women of reproductive age in the country, with an annual number of births of approximately 7 million and annual population growth of 3.2% per annum. The country's rapid population growth is attributable to a high total fertility rate (TFR) of 5.5 children per woman.¹³ Premised on the Nigeria population growth at the expense of natural resources and other social facilities, family planning¹⁴ and contraception usage has become necessary and pivotal to reducing the country's fertility rate if efforts at reducing population will yield desire result.¹⁵ However, contraceptive use varies substantially among world nations.¹⁶ For instance, the 2010 World Population Data Sheet showed that contraceptive prevalence rate vary widely from an average of 75% in America to 29% in Africa.¹⁷ Of course, a number of factors are responsible for the low contraceptive prevalence rates among sexually active women in Africa. These

¹⁰ Storv, W.A. *The Effects of Unplanned Pregnancy among College Women* (Virginia: University press, 1999) 25.

¹¹ Helen Ovbiagele, 2012. Nigeria's increasing population: problem arising. Retrieved April 19, 2016 from <http://www.vanguardngr.com/2012/06/nigeria-increasing-population-problems-arising/#sthash.sjrto2C5.dpuf>.

¹² United Nations 2013.

¹³ National Population Commission and ICF International 2014.

¹⁴ Family planning is the ability of individuals and couples to attain their desired number and spacing of their children through contraceptive use. It refers to a conscious effort by couples to limit or space the number of children they want to have through the use of contraceptive methods. Contraceptive methods are classified as modern or traditional methods. Modern methods include female sterilisation, male sterilisation, the pills, intra-uterine device (IUD), injectibles, implants, male condom, female condom, standard days method (SDM) and lactational amenorrhea method (LAM). Methods such as rhythm (periodic abstinence) and withdrawal are grouped as traditional methods. See Nigeria Demographic and Health Survey (NDHS), 2013 Preliminary Report of National Population Commission, 13.

¹⁵ Graff, M., & Bremner, J. *A Practical Guide to Population and Development*, (Washington: Population Reference Bureau, 2014) 56.

¹⁶ Population Reports. New Survey Findings. The Reproductive Revolution Continues. INFO Project. Center for Communication Programs. The Johns Hopkins Bloomberg School of Public Health. Volume XXXI Number 2. Spring 2003.

¹⁷ Population Data Sheet. 2010.

factors include lack of access to family planning services, fertility-related reasons, opposition to use, lack of knowledge and method (health) related reasons.¹⁸ Generally the success of family planning programs in Africa is affected by poverty, inadequate knowledge about contraception, limited ability to make independent decisions about using family planning or about when to have children, strong compliance to cultural and religious norms and lack of experience in obtaining family planning services.¹⁹ Poor coordination of reproductive health programs is other additional factor contributing to low contraceptive use in Africa.

To reduce fertility rate and check population growth, virtually all countries in Africa either directly or indirectly support the distribution of contraceptives.²⁰ The large majority of these countries—48 out of 53—provide direct government support for the distribution of family planning methods, whereas several countries such as: Somalia in Eastern Africa, Cameroon, Central African Republic and Chad in Middle Africa and Sierra Leone in Western Africa make contraception available by supporting the activities of non-governmental agencies.²¹

Also by the mid-1970s, nine countries²² had adopted legislation that was supportive of family planning. In Southern Africa, for instance, all countries except Namibia, which only gained independence in 1990, were early supporters of contraceptive use. Countries in Northern Africa, with the exception of the Libyan Arab Jamahiriya, were also early supporters of family planning. Most Governments, however, believed that problems related to population were due to a lack of economic growth and development. This was the essential message of the First African Population Conference held in Ghana in 1971. Hence, a major milestone in the history of contraceptive policies in Africa was the Second African Population Conference held in Arusha in early 1984.²³ This conference was also an essential part of the preparatory process leading up to the international conference in Mexico City later that year. The Arusha Conference adopted the Kilimanjaro Programme of Action, which provided the framework for the formulation and implementation of population policies and programmes in Africa. The Programme of Action was still strongly

¹⁸ Williamson L.M, Parkes, A. Wight, D. Petticre, M. & Hart, G, "Limits to Modern Contraceptive Use among Young Women in Developing Countries: A Systematic Review of Qualitative Research" (2009) 6(3) *Reproductive Health* 9. See generally, Fagbemi, S.A., "An Appraisal of the Socio-Legal Implications of Population Growth on the Environment" (2013) 3 *University of Ibadan Journal of Public and International Law* 57-71.

¹⁹ Ringhein, K & Gribble J. "Improving the Reproductive Health of Sub-Saharan Africa's Youth: A Route to Achieve the Millennium Development Goals" (2012) *Population Reference Bureau* 54.

²⁰ This is with the exception of Equatorial Guinea, Gabon and Libyan Arab Jamahiriya.

²¹ Population Division Department of Economic and Social Affairs United Nations Secretariat, *Fertility, Contraception and Population Policies*, (2003) ESA/P/WP.182, New York 19.

²² Democratic Republic of the Congo, Ghana, Kenya, Madagascar, Mauritius, Seychelles, Uganda, United Republic of Tanzania and Zambia.

²³ United Nations, 1984.

linked to the socio-economic development of the region, but it increasingly recognised the importance of family planning services to reduce fertility rate and check population growth. Few of recommendations that emanated from the Conference to encourage the use of contraception include the following among others:

- i. Governments should acknowledge that family planning and child spacing strengthen the stability of the family;
- ii. Countries should incorporate family planning services into maternal and child health-care services;
- iii. Governments should ensure the availability and accessibility of family planning services to all couples or individuals seeking them and should offer services free or at subsidized prices;
- iv. Governmental national family planning programmes should make available a variety of methods to allow choice to all users.

The integration of family planning programmes into maternal and child health services during the late 1970s and early 1980s put new emphasis on allowing governments to assist couples to plan the size of their families and the timing of childbirth. This has provided an incentive for some Governments with restrictive policies to revise their policies. The clear endorsement of family planning programmes, both in the Kilimanjaro Programme of Action and the Mexico City recommendations, gave Governments a strong rationale to modify their stance. Some Governments moved from prohibiting the distribution of contraception towards official support. For example, in Eastern Africa, Burundi, Comoros, Malawi, Somalia and Zimbabwe began providing support, as did Cameroon, Central African Republic and São Tome and Príncipe in Middle Africa.

In Western Africa, Guinea and Niger also modified their policies in this direction. Some countries that had permitted the distribution of contraceptives through NGOs, established Government facilities to provide family planning services. These countries included Angola, Democratic Republic of the Congo, Ethiopia, Nigeria, Senegal, Sierra Leone and Togo. Other francophone countries—Benin, Burkina Faso, Côte d'Ivoire and Chad—derived considerable impetus from the preparatory process and follow-up events surrounding the international population conference in 1984. The Governments of these countries began to support the work of non-governmental organizations in providing contraceptive services and eventually moved towards directly providing family planning services. Only Djibouti tightened policies in the 1980s and abandoned all governmental support until the late 1990s, when it adopted a more supportive position.

The increased availability of timely and accurate population data and demographic analysis afforded policy makers the possibility of understanding the relationships between population and development and the consequences of high fertility, young age structure, and the spread of the HIV/AIDS virus. These pressing demographic concerns were discussed at the Third African Population Conference held in Dakar

in 1992.²⁴ The outcome of the conference clearly reflected the growing commitment of African heads of state to finding solutions to these most urgent demographic concerns in order to enhance the quality of life. The Declaration recommended the establishment of a follow-up mechanism to accelerate the implementation of the Kilimanjaro programme, and, for the first time in the African context, it further recommended that population policies and programmes should be integrated into development strategies. That countries should focus on strengthening social sectors with a view to influencing human development and they should work towards the solution of the population problem by setting quantified national objectives for the reduction of population growth. The aim is to bring down the regional natural growth rate from 3.0 to 2.5 per cent by the year 2000 and to 2.0 per cent by the year 2010.

However, in spite of the steps taken to reducing fertility rate and population growth, the efforts have yielded little results in Nigeria as the Nigerian population has continued to increase at the expense of available natural resources, thereby resulting in environmental degradation, poverty and socio-economic problems. For instance, as at date, there is no law that explicitly regulates the sale or use of contraceptive drugs and devices in Nigeria. Again, the Nigeria government does not have a policy directed specifically at the safety requirements of contraceptive drugs and devices,²⁵ save the provision of the Food and Drugs Act,²⁶ which prohibits misleading labeling and advertising practices.²⁷ The Act authorises the Minister of Health to require manufacturers of drugs to furnish information on a drug's chemical composition, its intended use, the results of clinical investigations, and any adverse effects on health.²⁸ Similarly, the Act also outlaw the importation of devices or drugs into Nigeria unless they are accompanied by a certificate that guarantees that they comply with Nigerian standards and the standards of the country in which they are manufactured.²⁹

The reality from the above position reveals that government acceptance of contraceptive use is not target directly at reducing population growth. Hence, total contraceptive usage in Nigeria is 7.5%, and the use of modern methods is 3.8%.³⁰ Among married women, the most common methods of contraception are the pill (29.7%) and injectables (24.3%). Also the private sector is the primary source of contraceptives for women in Nigeria.³¹ The government providers supply

²⁴ United Nations, 1992.

²⁵ The Centre for Reproductive Law and Policy (CRLP), 1998. Women's reproductive rights in Nigeria: A shadow report, p. 6. Retrieved on February 20 2015 from www.reproductiverights.org.

²⁶ Cap F32, Laws of the Federation of Nigeria 2004.

²⁷ Section 5 (a) of the Food and Drugs Act, Cap F32, Laws of the Federation of Nigeria 2004.

²⁸ *Ibid*, section 4.

²⁹ *Ibid*, section 8(2).

³⁰ Planned Parenthood Foundation of Nigeria, Country Programme Situation Information. 1996. (unpublished paper, on file with The Center for Reproductive Law and Policy) at 147.

³¹ *Ibid*.

approximately 37% of modern contraceptives in Nigeria, including condoms, spermicides, intra uterine devices, injectables, and the pill.³² The truth is that apart from other militating factors, the above percentage is too small to reduce population growth. It is noted that, Nigerian families have begun to embrace the use of contraception largely due to economic reality and hardship facing them rather than for population control. Hence, in view of the greater impact which the use of contraceptive will have on population control, the time has ripe for government to embark on widespread awareness programme to encourage contraceptive use as a method for population control and to mitigate several adverse effects which large population size have on the country socio- economic development.

3. Examination of the Effectiveness of Nigerian National Population for Population Control

An important distinguishing feature between the developed and developing countries is that fertility³³ is low in the former but high in the latter, with a difference of about 2 births for the 1990s.³⁴ The latest United Nations inquiry among governments designed to monitor their perceptions and policies on demographic trends and levels in relation to development showed that 47 percent of the Member States, comprising 59 countries, including Nigeria, view their present fertility levels as unsatisfactorily high.³⁵ This has led to the evolution of population policies in these countries to reach some demographic goals.³⁶ Fifty-eight percent of these governments have policies bordering on modification of their fertility levels to reduce population growth and improve family well-being. In fact, 36 percent of the national governments have specified quantitative targets for their future fertility levels, with an overwhelming majority stipulating the year 2000 as the target year for attaining their desired fertility levels.³⁷

³² *Ibid* at 36.

³³ Measured by total fertility rate

³⁴ United Nations. 1995. Results of the seventh United Nations Population Inquiry among Governments. New York: Department for Economic and Social Information and Policy Analysis, Population Division, 107.

³⁵ *Ibid.* see also, Mba, C.J. Mba., "Nigeria's Population Policy and Future Fertility Decline" (2002) 18(2) *Research Review NS* 2.

³⁶ The evolution of population policies can be divided into five phases: (a) the 25-year period following the establishment of the United Nations (1945-1970); (b) the decade of the 1974 World Population Conference in Bucharest (1970-1980); (c) the decade of the 1984 International Conference on Population in Mexico City (1980-1990); (d) the decade of the 1994 International Conference on Population and Development (ICPD) in Cairo (1990-2000); and (e) the beginning of the 21st century. See *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, annex, para. 13.6, p. 11.

³⁷ Including Nigeria of course, this target was not met as most African countries have failed to meet minimum fertility levels. One of the reasons for this, is lack of education amongst the teeming populations to understand the need for small family size.

Nigeria's first population policy was crafted during the military administration of General Ibrahim Babangida with Professor Olikoye Ransome-Kuti as the Minister of Health in 1988. Its main goal was:

“[T]o improve the standards of living, to promote the health and welfare, especially through preventing premature deaths and illnesses among high risk mothers and children; to achieve lower population growth rates through reduction of birth rates by voluntary fertility regulation methods that are compatible with the attainment of economic and social goals of the nation...”

Historically, Nigerian National Population Policy was derived from differing perceptions of population problems and the need to adopt policies to influence the identified problems.³⁸ The six-year development plan which followed the 1951-56 revision of the first “plan”³⁹ had its main objectives ‘the achievement and maintenance of the highest possible rate of increase in the standard of living and the creation of the necessary condition to this end.’ In spite of this laudable idea, Orubuloye observed that not a slightest reference was made to the number of persons, the raising of whose standard of living was said to be the main concern of the plan.⁴⁰ Consequently on the attainment of national independence in 1960, the major concern of planners had been the increasing scale of social services which hitherto had been provided piecemeal by the former colonial government. Of course, the First National Development Plan (1962-1968) noted the high rate of population growth. However, it offered no specific population programmes to counter the widespread trend and its effects.

Similarly, the Second Development Plan (1970-1974) took note of the rapidity of the rate of population growth, which then stood at 2.5 % per annum, but stated that the demographic situation did not constitute a serious obstacle to domestic economic progress which was at that time fuelled by increasing oil revenue.⁴¹ Throughout this period, the government took an officially *laissez-faire* attitude towards population growth.⁴² In the early 1970s the government adopted a policy

³⁸ Odimegwu, C. *An Appraisal of the National Population Policy* (1998) University of the Witwatersrand. Retrieved January 27, 2016 from <https://www.researchgate.net/publication/256344586>, at 5.30pm; Leanne Kym Jane Lozanes. *The Historical Development of Nigeria's Population Policy and its Perceived Effects on Nigeria's Population*. Retrieved January 27, 2017 from http://www.academia.edu/5019040/The_Historical_Development_of_Nigeria's_Population_Policy_and_Its_Percieved_Effects_on_Nigeria's_Culture at 2.30pm

³⁹ Federal Republic of Nigeria (1962): *National Development Plan, 1962-1968* Lagos.

⁴⁰ Orubuloye, I.O., “Population Policy in Nigeria” in *RIPS: Developments in Family Planning and Programmes in Africa*, (1989) Proceedings of the Colloquium on the Impact of Family Planning Programmes in Sub-Sahara Africa: Current Issues and Prospects 20.

⁴¹ See generally Opatoyinbo, O, Adepetu, A. & Abdullahi, M., “Population Growth and Urban Land Use Change along River Kaduna Floodplain” (May 2015) *The Wisdom of the Ages to the Challenges of the Modern World Sofia, Bulgaria*, 17-21. See also, Federal Republic of Nigeria, *Second National Development Plan 1970-1974*, (Federal Ministry of Information, Printing Division, Lagos, 1970).

⁴² Odimegwu, *op cit.*, 8.

of integrating family planning services, previously largely operated by voluntary non-governmental organisations into the overall health and social welfare programmes, permitting families to gain access to enable them freely choose the number and spacing of their children. This perspective persisted during the 1975-1980 Third Development Planning.

The Fourth National Development Plan (1981-85) was however more specific in its population policy objectives⁴³ by making family planning and population control in general its main pursuit, albeit with no specific budgetary allocation in keeping with government's stand that development in other sectors would bring about demographic changes. Thus, up to 1984 when General Muhammadu Buhari's regime came to power, government had no interest in establishing facilities for family planning services. The first articulated position of the Nigerian government was stated by General Muhammadu Buhari in his message to the International Conference on Population for Development held in Mexico City from 6-13 August, 1984 where he stated *inter alia*:

"We in Nigeria now feel that in the face of rapid population growth, a well-articulated population policy is necessary. Such a policy should have as its main focus, guidance in fertility behaviour which will emphasise the health of both mother and child. This policy calls for the re-orientation of mothers as to the benefits of adequate birth spacing, a practice which has long been embedded in the African tradition but which is being eroded by the influence of modernisation."

Following hard in the heels of the Mexico declaration, a National Workshop on Population and Development Programmes for Nigeria was held at the International Institute of Tropical Agriculture (IITA) Ibadan between February 27 and March 1, 1985.⁴⁴

The workshop made some recommendations to the government which include the following among others:

- a) the need to have a critical review of the demographic situation in the country;
- b) the need to assess how this situation affects socio-economic development;
- c) the need to strengthen the commitment of the country towards the strategy of self-reliance and development;
- d) the need for a national population policy, and
- e) the need to articulate under the policy, programmes and projects for the effective implementation of that policy.

The above recommendations were accepted by the Federal Government, which later set up a provisional Consultative Group on Population and Development to

⁴³ Federal Republic of Nigeria (1981): 4th *National Development Plan, 1981-1985*.

⁴⁴ The Workshop was held under the auspice of the Federal Ministry of Health to discuss the impacts of rapid population growth on social and economic advancement and consider a potential plan of action for population programmes in Nigeria.

draft the Nigerian National Population Policy for Development, Unity and Progress on Population and Self-Reliance.⁴⁵ However, in spite of the acceptance of the above recommendations, the Nigerian population policy was implicit and was not directly aimed at influencing the determinants⁴⁶ of population change but instead was expected to affect them indirectly through social and economic development programmes. To this end, for the first 25 years after independence, the policy seems to have had no effect on fertility rate during the prosperous 1970-1980 period as the National Fertility Survey (NFS) shows that Nigeria has a relatively stable and high total fertility rate of 6.3 children per woman with 3% of women using modern contraceptives.⁴⁷

As a matter of fact, by the Fifth Development Plan (1986-90) there was a clear admission of Population problems. Given the population situation, the sharp decline in oil prices in 1983, the growing awareness of dwindling resources, and the constitutional responsibility of the government to enhance and sustain the country's welfare,⁴⁸ the Federal Ministry of Health was mandated in 1984 to initiate the preparation of a national population policy and of action for inclusions in the Fifth National Development Plan. Hence, through a series of seminars, workshops and conferences, it was agreed that there was the need for an explicit population policy involving a deliberate intervention of public policy into areas of family life.

Realising the changes inherent in an uncontrolled population growth for national development and after years of careful preparation, the National Population Policy was drawn up by an Inter-Ministerial Group in 1985. The Federal government in

⁴⁵ Federal Republic of Nigeria, 1985.

⁴⁶ For instance, John Bongaarts, through an Extensive Study of a Number of various Surveys Identified five major proximate determinant factor affecting fertility as marriage, abortion, contraception, breastfeeding and sterilization. His position was that other factors such as education and urbanization, etc. affect fertility through these determinants. See Bongaarts, J, Odile, F. and Ron, L. "The proximate determinants of fertility in Sub-Saharan Africa" (1984) 10 *Population and Development Review*, 511-537; Victoria, I. Sakevich, B and Denisov, P. Birth control in Russia: Overcoming the State System Resistance Basic Research Program Working Papers Series (2014) sociology WP BRP 42/Soc/2014, p 4.

⁴⁷ NFS. 1981: *National Fertility Survey: Final Report*, 1981/82. This figure is without doubt very small

⁴⁸ As stipulated in various sections of Chapter II of the Constitution of the Federal Republic of Nigeria 1999 as amended. See most importantly sections 16 and 17.

February 1988 approved the policy and formally launched it in April 1989.⁴⁹ The political strategy adopted to draw support for this policy was through extensive public awareness programme carried out throughout the preparatory stages and the participatory approaches taken by the government, including the general community in the policy formulation stage.

3.1. Examination of Salient Parts of the Nigerian Population Policy

The Nigerian National Population Policy document is in eight sections dealing with separate headings as follows:

1. The first three sections describe the magnitude of the population problem, discuss its implications and set out the principles of voluntarism and social responsibility upon which the policy is based.
2. The identified objectives/goals of the policy are:
 - a) to promote awareness among the citizens on population problems and the effects of rapid population growth on development, within the shortest time possible;
 - b) to provide everyone the necessary information and education on the value of 'reasonable family size at both the individual family and the future of the nation in achieving self-reliance;
 - c) to educate all young people on population matters, sexual relationships, fertility regulation and family planning (FP) before entering the age of marriage and childbearing, to assist them towards maintaining responsible parenthood and reasonable family sizes within their ability to foster;

⁴⁹ See NIPPs: The Integration of the National Population Policy into Regional Planning Process For Sustainable Development in Nigeria. Lecture on the Integration of the National Population Policy into Regional Planning Process for Sustainable Development in Nigeria, July/August, 2008. Retrieved September 29, 2016 from <http://www.ecolabconsult.com/components/sampledownload/>. at 5.00pm. In summary, previous development plans referred to the adverse implications of population growth for development, explicit action by government in response to these concerns began with the African Regional Population Conference in 1984, followed by an International Population Conference later the same year, Nigeria strongly endorsed International Action Plans for dealing with population issues. A number of workshops, seminars, including discussions of the World Bank's 1984 tagged World Development Report were held during this period to bring about better understanding of population issues in the Nigerian context and to build a consensus for the emerging National Policy. During the course of these discussions, special computerized presentations on population and development were made to all the state governments, their cabinets and to the Federal Heads of Ministries. The World Bank, UNFPA and USAID provided technical and financial inputs. This is prelude to the policy. Commenting on the policy, the World Bank (1991) in its "appraisal report of Nigerian National Population Project" observed that the policy is a model of its kind and has been endorsed by the international community. See Enang, E., & Ushie, M., "Culture and Policy Implementation: An Appraisal of Population Policy in Nigeria" (2012) *International Journal of Humanities and Social Science* 2; A revised policy in 2004 has included the aim of reduction of maternal deaths by 75% in 2015 in accordance with the Millennium Development Goal Number 5.

- d) to make family planning means and services to all people and individuals easily accessible at affordable cost, at the earliest possible time, to enable them to regulate their fertility;
- e) to provide fertility management programmes that will respond to the needs of sterile or sub-fertile couples to achieve reasonable self fulfilment;
- f) to improve demographic data collection and analysis on a regular basis and to use such data for economic and social development planning, and;
- g) to enhance integrated rural and urban development in order to improve the living condition in the rural areas and to slow down the rate of migration from rural areas to the cities.

The goals of the Policy include the following:

- a) to improve the standards of living and quality of living and of life of the people;
- b) to lower population growth and birth rates through voluntary fertility regulation;
- c) to achieve a more balanced spatial distribution of population between rural and urban areas.

The increased provision of family planning services was seen as vital to the achievement of the above goals. One major component of the policy document is the specification of a set of targets, which demonstrates a strong interest of the government to fundamentally change the reproductive behaviour of Nigerians.⁵⁰ The population policy programme components include the provision of family and fertility regulation services to all persons who wish to use them voluntarily and the strengthening of the maternal and child health programmes to reduce the current rate of high childhood and maternal morbidity and mortality.

The policy also aimed at integrating women, children and youth into the development process, provided awareness and enlightened the people on the consequence of their population education and information programme; and reversal of rural-urban migration by taking positive action to improve rural economies as a major component of the population policy programme. The policy also puts emphasis on data collection, training, research, monitoring and evaluation of population programmes.⁵¹ However, the policy has remained ineffective due to a number of factors such as: low contraceptive use among the teeming population, lack of serious commitment on the part of government to the enforcement of the policy, the apparent conflict between the mission statement of Kilimanjaro Declaration to which Nigeria is a party and the principle of voluntarism and social responsibility upon which the National Population Policy is predicated and more importantly the impact of human rights concept on contraceptive use and enforcement of population policy.

⁵⁰ Mba, *op cit.* 23; Federal Republic of Nigeria 1988: 13-14.

⁵¹ Odimegwu, *op cit.*, at. 9-13.

4. Impact of Human Rights on Contraceptive Use and Enforcement of Nigerian Population Policy

One of the major impediments to contraceptive use and enforcement of population control policy is the issue of human right. Human rights, as a concept has various dimensions. To make them easily accessible, human rights are expressed in national constitutions and laws and in regional and international conventions.⁵² According to Cook *et al*,⁵³ they are tools that direct government agencies, individuals and institutions towards the appropriate shaping of their policies and practices, and equip them with the principles and language to urge improvements in the policies and practices of others. Many individuals and groups find human rights empowering because they provide means by which they can legitimately assert their interests. Governmental agencies can employ human rights to advance social justice among the people they lead and serve, and individuals and groups can employ human rights to require governmental agencies to observe the standards of conduct to which they have committed themselves. Hence, convinced that high population growth rates impede socio-economic development, leaders have tended to concentrate on the provision of contraceptive services in order to lower the birthrate, thus achieving greater economic growth and improved social welfare.

However, these rights have been viewed as private rather than public rights, involving private behaviour unsuitable for the attention of human rights advocates. For instance, the International Conference on Population and Development (ICPD), which was held in Cairo in 1994, represented a milestone for women's rights. While the Conference was focused on population issues, the delegates meeting in Cairo agreed that population was not only about demographics but, more importantly, about people. The issues taken up in its Programme of Action are fundamentally related to women's human rights, including gender equality, the family, reproductive health, birth control and family planning, women's health, as well as immigration and education of women.

Importantly, the Programme of Action is explicitly grounded in human rights and proclaims that 'advancing gender equality and equity and the empowerment of women, and the elimination of all kinds of violence against women, and ensuring women's ability to control their own fertility, are cornerstones of population and development-related programmes.' The Conference was also important for its clear statement of reproductive rights, explaining that these 'rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning

⁵² For the origin of the Concept of Human Rights, see Fagbemi, S.A., "An Appraisal of the Fundamental Human Rights and the Fundamental Objectives and Directive Principles of State Policy Provisions of the 1999 Constitution" (June 2015) 15(2) *The Constitution: A Journal of Constitutional Development* 26-53.

⁵³ Rebecca, J. C, Bernard, M. D & Mahmoud, F. F. *Reproductive Health and Human Rights: Integrating Medicine, Ethics and Law* (Great Britain: Oxford University Press, 2003) 149.

reproduction free of discrimination, coercion and violence, as expressed in human rights documents'.⁵⁴ For instance, forced and coerced sterilisations are regarded as grave violations of human rights and medical ethics and can be described as acts of torture and cruel, inhuman, and degrading treatment.⁵⁵ Similarly, forcefully ending a woman's reproductive capacity may lead to extreme social isolation, family discord or abandonment, fear of medical professionals,⁵⁶ and lifelong grief.⁵⁷ Due to the universal recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, the ICPD Programme of Action sets specific targets for: the provision of universal education; the reduction of infant, child and maternal mortality; and ensuring universal access to reproductive health care, including family planning, assisted childbirth and prevention of sexually transmitted infections, including HIV/AIDS, by 2015. Follow-up conferences have been organised to assess progress towards these goals, and inequality and lack of accountability constitute ongoing challenges to their achievement.⁵⁸

5. Recommendations

Premised on the ineffectiveness of the Nigerian National Population Policy coupled with low enthusiasm for the use of family planning and contraceptive by married couple to control population growth, the following recommendations are imperative.

1. The Nigerian National Population Policy should be reviewed to pave way for the promulgation of direct law on population control with sanction to compel compliance.
2. Since family planning plays important role in population control, poverty reduction, and human development. And since a robust Family Planning services have a range of benefits which include maternal and infant survival, better nutrition, increased educational attainment, a stronger position of girls and women at home and in society, prevention of sexually transmittable diseases (STDs) etc, contraceptive use and change of behaviour amongst citizenry toward birth control should be encourage. This can be achieved

⁵⁴ United Nations publication. "Women's Right are Human Rights" HR/PUB/14/2, November, 2014

⁵⁵ UN Human Rights Council, *Violence against Women (Addendum): Policies and Practices that Impact Women's Reproductive Rights and Contribute To, Cause or Constitute Violence against Women*, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Radhika Coomaraswamy, E/CN.4/1999/68/Add.4, January 21, 1999, para. 51, <http://www.unhcr.ch/Huridocda/Huridocda.nsf/0/4cad275a8b5509ed8025673800503f9d?Opendocument>

⁵⁶ see European Roma Rights Centre, Parallel Submission to the Commission on the Elimination of All Forms of Discrimination against Women for the Czech Republic for Consideration at the 47th Session 4 to 22 October 2010, para, 7, p. 4, retrieved on February 24, 2015 from www2.ohchr.org/english/bodies/cedaw/docs/ngos/ERRC_1_CzechRepublic_CEDAW47.pdf.

⁵⁷ See, e.g. Gatsi, J. Kehler, J and Crone, T. 2010. *Make it Everybody's Business: Lessons Learned From Addressing The Coerced Sterilisation Of Women Living with HIV in Namibia*.

⁵⁸ *Ibid*.

through information campaigns on the positive effects of contraceptive usage and Family Planning to control population growth.

3. Government should also use education as an instrument, per excellence, to effect compliance with the extant population policy. For instance, an improved and compulsory education and economic growth will aid the voluntary compliance with the family planning system as envisaged in the National Population Policy. To this end, population education must be integrated into the curricula of primary, secondary, tertiary and adult education institutions and directed at all age groups as well as social classes in the society. This will allow the citizens to appreciate the implications of having large family and problems associated with it early enough and understand the basis for its control.
4. The judiciary must give relevance to policies consideration *visa-vis* the rights of couple to determine the number of children they want without intervention by state, in reaching their decisions, without relegating policies completely and rendering them ineffective.

6. Conclusion

In many African countries as discussed in this paper, contraceptive use and family planning became more after the Second African Population Conference held in Arusha in early 1984. The participatory Countries adopted African Kilimanjaro Programme of Action, which had earlier recognised the importance of family planning services to reduce fertility rate and check population growth. Also, the Kilimanjaro Declaration adopted a primary health-care strategy with integrated family planning services. This approach provided the framework for countries to re-orient official policies: contraception was made available as a way to assist couples to have the number and spacing of children they desired, and as a means to improve the quality of life for women and children in particular. However, the actual use of contraceptives at the household level depends on the availability of accessible family planning services in the local environment, on the knowledge people have of family planning measures, and their attitudes towards (acceptance of) these services.⁵⁹

Generally, the success of family planning programs in Africa is affected by poverty, inadequate knowledge about contraception, limited ability to make independent decisions about using family planning or about when to have children, strong compliance to cultural and religious norms and lack of experience in obtaining family planning services.⁶⁰ Poor coordination of reproductive health programs is other additional factor contributing to low contraceptive use in Africa.

⁵⁹ Abiba Longwe, Janine Huisman & Jeroen Smits, "Effects of Knowledge, Acceptance And Use Of Contraceptives On Household Wealth in 26 African Countries" (2012) Nijmegen Center for Economics (NiCE) Institute for Management Research Radboud University Nijmegen 6.

⁶⁰ Ringheim, K. & Gribble, J., Improving the Reproductive Health of Sub-Saharan Africa's Youth: A Route to Achieve the Millennium Development Goals (2012) *Population Reference Bureau* 54.

In order to achieve population control, the government adopted the National Policy on Population in 1988. The objective of this is to improve the standards and quality of living and of life of the people; to lower population growth and birth rates. The policy proposed four children per woman and the use of family planning method by couple to control population growth. However, the policy was premised on the principle of 'voluntarism and social responsibilities', without any penal sanction for violation. Added to this, was the impact of human rights on contraceptive usage as well as strict adherent to the provisions of the National Policy for Population Control. The human right concept has been universally recognised and championed by the International Conference on Population and Development (ICPD). The implication of human rights on the implementation of population policy, by no mean has damaging effect on government efforts to achieve population reduction.

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