PEOPLE: International Journal of Social Sciences
ISSN 2454-5899

Toby et al., 2020

Volume 6 Issue 2, pp. 33-51

Date of Publication: 15th July 2020

DOI- https://dx.doi.org/10.20319/pijss.2020.62.3351

This paper can be cited as: Toby B. G., Akani N. K., & Onuoha, A. (2020). Insurance Laws & Practices in the United States of America and South Africa: Insights for Nigeria. PEOPLE: International Journal of Social Sciences, 6(2), 33-51.

INSURANCE LAWS & PRACTICES IN THE UNITED STATES OF AMERICA AND SOUTH AFRICA: INSIGHTS FOR NIGERIA

Boma Geoffrey Toby
Senior Lecturer, Faculty of Law, Department of Jurisprudence and International Law, Rivers State University, Port Harcourt, Rivers State, Nigeria
tobybomag@yahoo.co.uk

Nnamdi Kingsley Akani
Senior Lecturer, Faculty of Law, Department of Jurisprudence and International Law, Rivers State University, Port Harcourt, Rivers State, Nigeria
akani_esq@yahoo.com

Anugbum Onuoha
Lecturer, Faculty of Law, Department of Business Law, Rivers State University, Port Harcourt, Rivers State, Nigeria
anugbum@yahoo.com

Abstract

The United States of America (US) is one of the largest financial markets, and houses the most mature and viable insurance sector in the world, with a huge population and well developed technologically advanced insurance sector. Insurance as part of the finance sector added 21% to the GDP of the financial institutions in the US. Similarly, in the Republic of South Africa (SA), though smaller in population to the US and Nigeria, SA enjoys a robust insurance sector with the latest Insurance Act 2018 to help the sector and the economy. Nigeria, on the other hand is much larger in terms of size and population to SA, being over 200million in population, but with a weak insurance sector and the Insurance Act 2004 is the primary legislation sustaining insurance *practice in the 36 states of Nigeria. This paper examines the prospects, challenges and pitfalls of these experienced sectors, with a view to gaining useful insights into their insurance laws and practices for useful guide that can benefit the Nigerian insurance industry and made recommendations that attention must be given to Nigerian Insurance law, by way of a review and an amendment for growth of the industry. Digital and technological infrastructure, though presently at its nascent stages in Nigeria, must be fully explored if the sector is to realize its full potential, while attention must be given to the cost and over-dependence on digital and tech innovations to avoid their pitfalls.*

Keywords

Insurance Market, Digital Technology, US Laws, SA Laws, Nigeria

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1. Introduction

Generally, good laws backed by enforceable professional ethics and practice in any institution aids advancement and growth and becomes an example to others. The United States of America's insurance industry is undoubtedly an example, the largest and a leader to others in terms of population, products, effective laws, premium income, technological innovation, infrastructural developments and in population as well as South Africa. As part of the financial sector, Insurance contributes meaningfully to the gross domestic product of the economy and stands out in the US and SA as insights for emerging markets across the globe.

1.1. Problems and Objective of the Paper

This paper accordingly studies the financial sectors of the US and the SA which is regarded as the largest economy in Africa with a dynamic market with developed insurance laws to allow for diversity and growth of the sector., Nigeria on one hand has a much larger population to SA, but suffers from a weak insurance sector with inadequate and fragmented law, engendering mistrust and apathy from those who should patronize and consume insurance services. This paper finds serious disconnect between the practice, insurance realities and in global innovative trends obtainable globally practices under the Nigerian legal regime, leading to the conclusion that the existing legal framework have not yielded the much-required impact on insurance, thus creativity a gap between insurance and consumers.

The objective of this study therefore is to examine the extant law on insurance in Nigeria; the resultant apathy on the sector in compares to the laws and practices in the US and SA.

Suggestion for reforms to close the widening gap in insurance education, sales and services in Nigeria is proffered. The paper recommends some dynamic and aggressive review, amendment of the extant law; a legislation of new ones that will promote insurance education, growth and development within the sector and overall enhancement of the economy. It is recommended that an exploration of the *pros and cons* from the evaluations made herein can help Nigeria gain useful insights to fix her sector while minimizing or possibly avoiding the setbacks suffered above.

1.1.2. Method of Review

This work commences doctrinally with a brief examination of the US financial sector, its legal systems and nature of the insurance market. Next, it considers the relevant South African laws and practices on insurance. And lastly, the paper discusses the extant law; the Insurance Act 2004 and its impact on insurance, the apathy suffered by the sector are also examines. Accordingly, this study covers the US, SA and Nigeria respectively.

2. Examination of the US Financial Sector

The US is one of the largest financial markets in the world that houses the most mature and highly competitive insurance sector with several insurers and key players in the world. The US is regarded as the largest importer and the second largest exporter. US has free trade agreements cutting across several nations and enjoys a well-developed infrastructure and high productivity which supports insurance growth. It has the highest internal markets for goods and dominates the trade in services. US is one of the top performing economies in studies such as the ease in doing business index in 2019. With a population estimated at 329,064,917 million in 2019 up from 327 million in 2018, the US houses the biggest insurance sector in the world and by market capitalization, AIG, MetLife (MET), Prudential Financial (PRU) and All-State insurance play active and key parts in the financial services sector. In 2019, the Insurance Information Institute estimated that the US insurance sector underwrote approximately $588,205.120 in Non-Life Premium and $594,910.567 in life with a total of $1,153,115,693 trillion in life and non-life direct premiums.

The US Department of Commerce Bureau of Economic Analysis (BEA) in 2019 revealed that the insurance sector’s share of GDP is 2.9% and the sector have been responsible for the economy’s resilience. Finance, insurance and real estate sectors alone accounted for a fifth of the total economy of the US, making it the largest industry by contribution to GDP, the second richest country in terms of GDP and accounting for 24% of the global GDP at purchasing power parity after China, according to World Bank figures. The US is dominated by a technologically-advanced and well-developed service sector, which gives rise to about 80% of the country's output, and the largest in the world in terms of revenue. Since 2011, the annual revenue of the industry known as insurance premium exceeded the $1.2 trillion mark, with room for more growth following a study that given its high premium volume, the USA falls short of the top ten countries in terms of insurance density. Insurers also drives the economy of the US and helps to fund roads and public projects. Insurance invests billions of dollars in state and local municipal bonds and loans and contribute largely to charitable platforms. This paper next examines the legal system and its effect on the insurance industry practices.

2.1. Insurance Legal System in the United States of America

A study by ICLG.COM (2019) reveals that the US has 50 states with the operations and activities of the Insurance industry being primarily regulated by each state with support from the federal government. Each of these states has its own laws concerning the appropriate contractual terms that parties are allowed to enter in an insurance relationship. The National Association of Insurance Commissioners acts as insurance regulator that standardizes the regulation of insurance among the US states and facilitates the sharing of best practices amongst them. The federal government has a more modest footprint in insurance regulation in the US.

The US congress passed the McCarran-Ferguson Act of 1945 to assure that states would have the primary role in regulating insurance and increased the federal government's roles in interstate insurance and reinsurance activities in a number of ways. For example, it streamlined approval for non-resident insurance sellers to operate across state lines. The registered agents, brokers and individuals and businesses with smaller risks profiles were allowed to form groups in order to lower cost and increase market choice for insurance consumers, making it easier to compare policies that fit individual profiles. Since 2008, the federal government has continued to regulate the financial elements of insurance companies. The Dodd-Frank Act, also called the 2010 Wall Street and Consumer Protection Act. created two review councils with the department of treasury to monitor the stability of the insurance industry and lead reforms to make it easier for surplus line insurers and brokers to conduct insurance business across states.

Insurance producers and financial advisors are important middlemen that help consumers choose from the various insurance policies available in the US market. InsuranceDirect247.Com (2019) agree that the policies are varied according to the needs of individuals but basically the live, health, disability and auto insurances. According to the Insurance Information Institute NY (2017), the exact number of insurance agents and brokers operating in the US is difficult to ascertain because of the types of licenses issued which varies from State to State. According to NAIC, there are more than 3.8million licenses issued to individuals to provide insurance services in the US alone. This large number reflects its size and diversity which includes producers, agents, brokers, solicitors, consultants, reinsurance intermediaries and the US has about 2,538 property/casualty insurers operating in it.

2.1.2. Nature of the Insurance Market in the US

(1) Various Innovative Distribution Channels

In the US, insurers distribute their products and services through various channels such as by agents, brokers, direct sales by insurers, the internet, private firms and banks (bank assurance). Recent trends outline future growth of these channels that customers increasingly use internet-based aggregators to purchase insurance policies. Just as the penetration of technology increased, insurers also increased their online sales strength, allowing direct interaction with consumers to reduce cost and to affect growth positively. For example, life insurers and their distributors expend significant resources in turning prospects into clients through digitized sales output. This means that an individual can submit a digital application and also have their policies digitally. According to research by Conning, Inc (2017), digitizing the entire buying process of underwriting is challenging because a fully underwritten policy needs a paramedic examination on the proposed insured's which takes time and that may not be effectively handled by computers alone.

Agents and Brokers play key roles in the distribution chain and help the growth of the insurance industry in the US. A massive internet technology is used to change the market from the traditional sales force to one that is challenged by internet innovation. The impact is felt in all sectors of the financial services including insurance, and the producers are not left behind in this trend. However, insurance companies are confronting a marketplace that is changing more drastically than ever before. Accelerated underwriting technologies and services are in use in a lot of companies ranging from global reinsurance to startups and the use of Robo-Advisors, InsurApps trends, social media, mobile app digital marketing channels abound. Financial Times (2017) observes that in addition to microeconomics, social and regulatory changes impacting the industry, insurers are coping with longer-term, game-changing trends including the increased connectivity among households and workplace internet devices; the development of autonomous vehicles, and the rising threat of cyber-attacks from dependence on the internet.

(2) Unknown Market Ahead

The US economy is said to be heading into an unknown territory using digital technology, and with the emergence of a new US administration and control of the white house under the leadership of Donald Trump, regulatory reforms, trade policies, and tax systems are undergoing reforms. And with the emergence of the Covid-19 threat, International economies have hit major speed bumps and negative interest rates in some countries. This adds up to a challenging year or years ahead of the insurance sector.

While the economy gained, millions of jobs and employment decreased over the past few years in the US. The pace of employment has been slowing down due to innovative technology taking over the jobs of individuals. Robotic process automation and autonomous (driverless) vehicles threaten to dramatically shrink the number of insurable workers over the next decade. At the same time, automation may help insurers lower their costs, but not likely enough to offset the potential losses of premium income. The economic and cultural shift has given rise to smart homes and the sharing economy may prompt shifts in policy designs and demand in the medium to long term. This trend is also seen in the auto industry, a potential threat to insurers. Autonomous vehicles and ride-sharing threaten to eliminate millions of insurable risks.

(3) Shrinking Markets and Cybercrime Attacks

Overdependence on technology has resulted to financial losses. Lohrmann on security and infrastructure, (2019, December 29), revealed that ransomware targeted states and local governments and has led to unauthorized access to information on the internet, which is a crime in the US. In the *United States of America v. Morris*, 928 F.2d, 510-11 (2d. CIF.1991), the court held that individuals with unauthorized access to protected computer could still be liable for acts of unauthorized access, exploiting a weakness on one system was established to give rise to a massive number of unauthorized accesses to other systems. The effects are huge financial losses for so many large companies and small-scale businesses in the US. The recent ransomware scam took its toll on the country in addition to rising cases of cyber or internet-related crimes. Similar occurrence is revealed by Aaron, B (2003) in his survey of cybercrime in the US.

The effect of cybercrime was first felt in the United States of America and has continued to be seen on a large scale. The US Consumer and Cybercrime Input Statistics presents a selection of the biggest online data breaches worldwide in February 2018, ranked by records stolen. It reported that a hack online was uncovered, affecting at least 500 million user accounts. The company revealed another hack dating to 2013, which affected one billion user records. The impact of the second reported yahoo hack was updated in October 2017, which the company revealed that 3 billion accounts had been affected, making it the largest data breach in history.

In the US, cybercrime or online war is the fastest-growing type of criminal activity and is troubling and affecting more and more each year. From credit card, identity theft, email hacking, ransomware, account stealing to influencing major elections, crippling businesses overnight. A whopping sum of $28 billion was spent by the US government on cyber-security and it is expected to increase as the years go by. Ransomware attacks increased by 36% in 2017, 100 new malware families were introduced by hackers and one in every 131 emails contains a malware used by hackers to generate money from unsuspecting people. The average ransomware demand also increased significantly from $294 to $1,077 in 2016. It is estimated to be more in 2018. On May 2019, most of Baltimore's government computer systems were infected with a new and aggressive ransomware variant named RobbinHood. All servers with the exception of essential services, were taken offline. In a ransom note, hackers demanded 13 bitcoins (roughly $76,280) in exchange for keys to restore access. The note also stated that if the demands were not met within four days, the price would increase and within ten days the city would permanently lose all of the data. 2019 was another eventful year in severe case of cybercrimes in the US. Globally, more than 4000 ransom-ware attacks occur every year and Americans are especially willing to pay a ransom after becoming victims of such attacks. These attacks to mankind are even more of a bigger threat than nuclear weapons. In addition, the traditional insurance middlemen in the USA are facing several other internal and external challenges. First, the insurance market is shrinking due to new marketing innovations. Life and health insurance fields may likely consider diversifying business or leaving the field. Secondly, issues of '… commercial lines, and group'. Elman, L (2017) adds top industry issues which must be dealt with in the years ahead, as such issues as the aging workforce, tax issues, and regulatory complexities form some of the tasks the US insurance industry face.

The Covid-19 pandemic with its attendant impact on the economy is also a significant bump to worry for in the coming years.

(4) Unclear Role for Producers

Brokers, as well as the agents, are licensed to offer insurance products for sale to the consumer, assist in claims settlement and negotiations with the insured, document policy information, analyze businesses procured for the insurers underwriting considerations and give periodic feedbacks on service, quality, and co-operation in the underwriting and clients service processes. However, the new technologies have brought about technological glitches, a fluid and unclear role for agents, and an annual enrolment process that has not even been straight forward to the people implementing it.

Brokers must cut through this complex set of rules and standards to be above board, which could be a real challenge. Similarly, the pressure on the agents to generate premium through sales of insurance produce is putting mounting pressure on them to sell at lucrative prices, thus making insurance sales based on price, products, and services instead of establishing trust first. This is setting the stage for the agent's failure.

The emergence of the internet has come to stay with large and small companies experimenting with ways they can create efficiencies in their systems through technology and the web. Internet-based sales to consumers by major carriers may end up excluding the independent agents and brokers from personal lines sales. More so, consumers now have more information at their fingertips and adequate knowledge to make solo insurance purchasing decisions themselves. Their role of placing and evaluating insurance risks has evolved somewhat in the direction of providing a broad range of value-added services.

(5) Additional Income Stream

Traditionally, the majority of the USA insurance revenue is dependent on commission. But that too is evolving. Brokers and agents are currently enhancing their resources by offering a wider range of new services such as risk management, research and consulting. They now derive resources or revenue also from fees for services rendered, creating an additional income stream, resulting in more stable income for them. A big insurance broker in the USA, Swiss Re, generates as much as one-quarter to one-third of their revenue from consulting. The above characterizes the insurance practices of the USA. Further, this paper examines the Republic of South Africa, its laws on insurance and their insurance experiences.

3. Overview of the Republic of South Africa's (SA) Economy

Timetric Industry (2017) forecast reveal that the Republic of South Africa (SA) is one of the largest economies in Africa aptly being referred to by Jay, V.W. (*et al),* (2019), as the engine of growth for the African continent. SA is a dynamic market supported by an abundant supply of natural resources and well-developed communication and transport infrastructure. In the World Bank Group (2019) *Ease of Doing Business* 2019 report, South Africa is ranked 84th globally, and is one of the two African countries in the top 50 on the ease of doing business. The country benefits from its well-established mining, manufacturing and agricultural sector which play a pivotal role in the economy.

SA offers a sophisticated business environment in terms of infrastructure, the legal system, natural and human resources, telecommunication network and financial services. The country is bordered to the North West by Namibia, to the North by Botswana and Zimbabwe, and to the North-East by Mozambique and Swaziland. To the East and South lies the Indian Ocean. South Africa has a landmass of 470,693 square meters (1.22mn sq.km) larger than many cities put together like the Netherlands, Belgium, Germany, and Italy combined, or Texas and California put together. Until 1944; SA was administered as four provinces (Transvaal, Natal, Orange Tree State, and Cape) and several self-governing black territories. While the new constitution provides for nine provinces of which the largest in the area is the Northern Cape (29.6%), the most populous is KwaZulu Natal and the most economically productive is Gauteng. The other provinces are Eastern Cape, Free State, Mpumalanga, Northwest, West Cape, and Limpopo. The population of SA is put at 58,558,270, an increase from 57.7 million in 2018. The external forecast predicts an increase in the years ahead. South Africa has religious freedom with 75% Christians, in addition to Hinduism, Islam, Judaism, and other faith. The economy has experienced rapid growth since the 1980s enduring a mild contraction of 1.7% in 2009 and resuming growth since 2010.

Insurance industry in SA is relatively mature, sophisticated and competitive given the robust nature of the SA economy, it has the highest insurance penetration levels in Africa with over 16.69% and the total percentage of world premium stand at 0.98. SA's direct written premium for non- life insurance stood at 9,510 and life premium at $38,286, totaling $47,776 the total life premium sector. The country's existing economic contribution is characterized by sluggish growth, lingering inflation and microeconomic imbalances, political instability, acute shortage of electricity, high level of household debts, global recession, facing the worst drought in 111years resulting in acute water shortage and harvesting losses from slow commodity prices. Poor health issues are part of other challenges.

3.1. Insurance Laws and Practices in South Africa

The SA insurance industry has two primary legislations regulating their sector. They are the Financial Sector Regulator Act 2017 which created the twin peaks model in use in 2018; and the previous Short-Term Insurance Act, No. 52 1988 and the Long-Term Insurance Act No. 53 of 1988, both of which have been overrun by the new insurance legislation - the Insurance Act No. 18 of 2017 which was signed into law by the President on the 17 January 2018, according to Emily (*et al*) (2018), commenced operations on 1 July 2018. This new 73 section law provides for a united legal regime for the prudential supervision of the insurance sector amongst others to improve and expand the protection of policyholders, ensure financial soundness requirement of insurers that is consistent with international standards. And for regulating insurance practice and supervision and in the long run lead to stability of the sector. It also seeks to replace and consolidate substantial parts of the Long term and Short-Term Insurance Act.

Notably, the Act provides for stricter regulation of foreign based insurer underwriting risks in SA providing just insurance market. More services will have easily accessible by micro -insurers in the market. In line with schedule 3 to the insurance Act, the Prudential Authority must by June 2020 (extended date), convert the registration of all previously registered insurers, reinsurers in SA, Lloyds underwriters previously operating in SA must be re licensed under the new insurance Act 2017 and must by 2018 publish the process the Prudential Authority will implement to give effect to the aforementioned conversion.

3.1.1. Health and Unemployment Challenges

SA experienced one of the most severe AID epidemics in the world, with 6.1million affected, and approximately 30% of pregnant women between 1993-2000. However, there has been a decline in the affected rate of infection; the death rate scourge is about 17% of the adult population. Economic issues are likely to continue to affect the market due to poor maintenance record, the delay of the upcoming risk-based solvency regime and other insurance legislations continue to pose a lot of uncertainties for the market. AXCO, (2017) reveal that industrial actions continue to weigh on manufacturing output and business thereby affecting economic expansion.

Accordingly, the country's unemployment crisis is deepening with 6.7-million people unemployed in SA. This is 29% of everybody who could be working. In other words, more than 10 million people are unemployed, or 38.5% of people who could be working. This high unemployment rate is encouraged by rigid labor regulations and isolation of rural dwellers from major markets. Career opportunities are undermined further by poor provision of educational services and basic health care. Institutional political instability presents the greatest obstacle to short term growth as well as burdensome regulations and corruption issues also pose a negative outlook.

3.1.2. Cyber Crime Attacks

Toby, S (2019) relates that SA is ranked the second highest Cybercrime Victim**.** According to the SA Banking Risk Information Centre (SABRC), 'South Africans lose more than R2.2bn to internet fraud and phishing attacks annually.' While technology introduces greater variety and confidence in the lives of many, it opens more avenues for people to be targeted by cybercriminals. Professor Sebastian Von Solmes noted that no one is immune from cybercrimes attacks, it is an international problem rated by the World Economic Forum's 2015 Global Risk Report as the fifth highest risk on likelihood, impact scale, while the US Federal Bureau of Investigation (FBI) ranked South Africa sixth and seventh on the cybercrime predator list, Anine (2017) believes that cybercrime is becoming a major crime in the SA.

In 2019, SA has about 13,842 cyber-attacks per day, equating to less than 677 attempted attacks every hour, or just over nine every second. An introduction of a new Cybercrime Bill to its Parliament was a revision of the previous 2015 Bill, which received various negative reactions. However, it sought to take important steps towards readying South Africa to cooperate internationally on cybercrime. No doubt, legislations abound on cybercrimes but none can satisfactorily address crime. Internet hackers are on the rise in South Africa; annually the sum of R2.2billion is lost to cybercriminals. Hackers have adopted an increasingly financial focus as they demand ransom usually in crypto currencies like Bitcoin in exchange for unlocking affected user's data. Companies throughout the globe have been affected. In 2018, more private coins such as Monero, Etherium and Zcash, a new breed of virtual currency gaining popularity within the digital underworld became popular for offering different security features and better privacy features. This is set to become popular with cybercriminals due to improved privacy over Bitcoin according to Olga K (2018).

3.1.3. Well Developed Insurance Distribution Channels

The SA insurance market enjoys a range of distribution channels at its disposal. Most commercial lines businesses including that dealt by underwriting managers are marketed through intermediaries. SA is a strong broker market and meanwhile inroads are being made by banks and direct sales. The broker's position remains solid. They are increasing using call centers to target customers, advertising in online media and via media phones, navigating into the electronic and digital world. Bancassurance has become a more effective distribution channel. Chain stores, groups, associations, and unions amongst others have featured in the SA market for many years. Particularly active in the market are car dealers, car manufacturers, and car retailers, some with captive insurers. Online aggregators (websites) are becoming increasingly popular too. even the micro insurers have joined in the upsurge.

4. Overview of the Nigerian Insurance Market

Nigeria is thickly populated with over 200 million people currently. It has an insurance industry that houses 57 registered insurance companies, 2 reinsurance brokers, 54 loss adjusters, 564 insurance brokers and 15,000 insurance agents respectively in various categories. The Vanguard (2017) reveals that the Nigerian insurance industry ranks 62nd in the world with $902 as total global premium representing 0.2% percent total premium as percentage of GDP in 2019. Potentially, Nigeria has the biggest insurance market in Africa but due to a weak legal structure on insurance and a not-too strong sector that is a huge task for the insurance regulator, NAICOM to manage. Some of the 59 insurance and reinsurance companies do not have much capital. Some are making losses according to Global Banking and Finance Review (2019), while others might not be able to comply with the current regulations to increase minimum share capital this 2020.

There is an extreme lack of insurance penetration and apathy which causes most of the large insurance businesses to be underwritten by foreign insurers. A recent survey shows that less than 1% percent of its adult population has access to a voluntary insurance coverage with 86.6million having no form of insurance at all, per Orimisan (2018). While 1.3 million adults, representing 1.5percent of the entire Nigerian adult population maintain some category of formal cover, recording a recurring decimal as a result of diminishing patronage. In addition, nine out of ten Nigerians do not have any form of insurance, in fact, the number of uninsured prospective consumers in Nigeria is among the largest in the world within a single market. The sector is reported to be fragmented and in need of consolidation.

Despite its achievements in the past decade, Insurance in Nigeria is still relatively underdeveloped and insurance penetration is at 0.3%, a rather low percentage for the entire sector.

The industry a requires a higher level of regulatory cooperation than it has at present. There is need for more involvement with telecom distribution which could take insurance at its present levels to meet internationally recognized standards. The total gross premium is falling. From the reports, total gross premiums, inflation-adjusted or US dollar terms have barely grown in 10 years. This is attributable to a lack of capital, lack of scale, too many companies, not enough regulatory cooperation and not a very profitable industry.

4.1. The National Insurance Commission (NAICOM)

NAICOM is the Federal Governments operator vested with the supervisory and administrative capacity to protect insurance and regulate their operation in Nigeria, the National Insurance Commission (NAICOM), in its effort to improve the sector, has been working to update and implement a new development plan, while insurance companies are increasingly looking to non-traditional products to further boost exposure and overall access to insurance policy coverage in Nigeria using the likes of micro-insurance for rural markets. The use of technological advances in the sales and services of insurance, is slow in the Nigerian Market. A hope of improvement is sure in the coming years especially following the Covid-19 pandemics. Growth in the Nigerian insurance sector is slow but with untapped potentials to be explored.

4.1.1. The Insurance Legislation in Nigeria

The Insurance Act 2004 (IA) is the latest and primary legal regime on insurance in Nigeria. This law was enacted in 2003; 17 years ago, and was subsequently codified under the Laws of Federation of Nigeria 2004. The IA is the law representing the thirty-six state of Nigeria on Insurance matters. This provision was a review on the Insurance Decree No. 2 of 1997 and made many changes in the new Act but made no significant improvement on several important aspects of insurance practice such as the insurance distribution mechanisms. The extant law retained the limited scope of middlemen, and re-enacted several of the provisions of the former with several other new provisions. It is the single most important piece of legislation in Nigeria determining how the bulk of insurance are to be conducted. The Act covers a great deal of detail, from specific licensing requirements such as minimum capital to supervisory reporting and corrective measures. and gives little flexibility for NAICOM to create supplementary regulations. Hence, NAICOM has issued very limited number of guidelines. Generally speaking, Section 2(b) of the new Act, Pension Funds & Provident Funds, were exempted from insurance control law but were now included under section 2(2)(b) as a category of life insurance business. *Section 2(1)(a)(b)(2) and (3)* Insurance IA

2004 classified insurance businesses into two, namely; life insurance business and general insurance business. While the life insurance is sub-divided into 3 classes of Individual Life Insurance business, Group Life Insurance and Pension Business, and Health Insurance Business. In the General insurance class, eight (8) further categories were created to include; Fire, General Accident, Motor Vehicle, Marine and Aviation, Oil and Gas, Engineering, Bonds Credit Guarantee & Surety ship Insurance and Miscellaneous Insurance businesses. Life insurance includes new additions of Pensions. Health Insurance business and General businesses were reduced from 11 to 8 categories in S. 2(b). It removed the special risks business that was introduced by the Insurance Decree of 1997.

On the matter of authorization to carry out Insurance business, S. 2(c) provides that no insurer can commence Insurance business without prior registration with the National Insurance Commission (NAICOM). Section 6(g) deals with the requirements for promoter's interview. This is an additional requirement aimed at ensuring that only credible people are by law authorized to control insurance financial institutions. Section 8 of the Insurance Act Cap 117, LFN, 2004 contains the cancellation of negotiation procedures for registered insurers. The new Law in Section 8(m) modified the aspects of claims by providing clearly that the Commission must have received and verified not less than 5 complaints of failure to pay claims promptly before cancellation of its registration. Section 9(7 under its Part III provides for share capital provision/minimum requirement to be maintained by any desirous insurer. The IA increased the minimum paid up share capital significantly from N20million to N150million naira for Life Insurance business, N20million naira to N200million naira only for General Insurance business. NAICOM also published the list as required under Section 9(3)(b) titled list of Approved Insurers in the various Daily Newspapers of March 24, 2004. Section 9(4), gave the Commission powers to increase the minimum paid up share capital without the need for an amendment of the law from time to time. By July 2019, NAICOM released a new minimum paid-up share capital policy for insurance and reinsurance Companies in Nigeria, provide that life insurance are required to increase their minimum paid-up share capital from Two (2) Billion Naira to Eight (8) Billion Naira, companies that provide general insurance are required to increase their minimum paid-up share capital from Three (3) Billion Naira to Ten (10) Billion Naira. In addition, George Etomi & Partners (2019) reports that companies that provide composite insurance and reinsurance are required to increase their minimum paid-up share capital from Five (5) Billion Naira and Ten (10) Billion respectively to Eighteen (18) Billion Naira and Twenty (20) Billion Naira respectively.

The circular comes into effect immediately and existing insurance and reinsurance companies are required to fully comply with the New Minimum Capital requirement by no later than June 30, 2020. In spite of the above, Nigeria's insurance contribution is among the least in the world, according to Babatunde, A. (2016), Nigeria is among the least countries in terms of insurance contribution to the Gross Domestic Product at 0.72 percent. With the outbreak of the Covid-19 on the globe, it remains to be seen what will become of the sector post covid-19.

The IA is weak and old, requiring an urgent over haul of its provisions to meet internationally acceptable standards of insurance practice. Most of its 106 sections have become obsolete in view of recent changes and the new normal in insurance operations globally. The Global Banking & Finance Review reports in 2020 that the industry needs a deeper level of regulatory cooperation than it has at present. Modern technology and other remote ways of buying and selling insurance such as is necessitated by the Covid-19 pandemic since 2019. The situation is aggravated by the poor governments outlook on business, the lack of basic infrastructures like roads, electricity, and low interest in manufacturing and agriculture, makes it difficult to use modern advances to communicate insurance to remote areas. Technology cannot be conveniently powered in Nigeria because of por electricity network and lack of digitalization of the insurance sector.

4.2. What Can Nigeria Learn?

Undoubtedly, Nigeria has a large market in Africa with huge prospects for insurance and a sizeable population to tap from. George Etomi & Partners (2019) further observes that the insurance industry is still developing in Nigeria and if adequately monitored, with the current effort sustained, it can improve the Nigerian economy. But admittedly, it is immature to handle these due to the above factors, projecting a serious challenge for the sector to compete favorably with other insurance sectors. The above jurisdictions examined have developed their insurance laws through concise legislations tailored towards the development of insurance practice; expanded their marketing mechanisms to include technology though not without its downside and they have also contributed more to their economy. Nigeria can gain positive insights from them to engender an effective insurance practice in its jurisdiction. According to PWC report, Nigeria economy is projected to get to the top 10 in the world in 2050 with a projected GDP of $6.4 trillion. The report agreed that Nigerian economy shows signs of improvement with untapped potentials. This is an opening for them to explore from useful insights and grow.

5. Concluding Remarks

Leaning on the already existing bilateral relations and investment framework agreement between the United States of America and Nigeria, Nigeria is eligible for preferential trade benefits under the African Growth and Opportunity Act. It is reported that by the first half of 2019, an estimated $400 million has been spent on developmental assistance from the US through its agency for international development for Nigeria. In addition to the US foreign investment in Nigeria which is reported to have totaled $1.3 billion in 2017. According to a study by *export.gov* (2018), the US was Nigeria's fourth largest import partner with 11.5% of the entire volume of imports, the top fifteen import trade partners of Nigeria emanating from the US. The above findings from the US and SA will aid the improvement of the insurance sector in Nigeria while avoiding the pitfalls. This can grow them into a viable and strong insurance sector. In conclusion, this paper recommends as follows:

- Avoid overdependence on innovative technology and the bitter results of innovation
- A review and re-enactment of a more robust legal framework on insurance that will take into cognizance new realities in global insurance laws and practices, for example, remote innovations.
- The legislative arm of government should abrogate the Insurance Act 2004, which is now 17 years old as having become outdated.
- Building of insurance resilience in Nigeria by improving basic infrastructures like electricity to power online insurance services; good roads, improved and sustainable agriculture, mining, manufacturing and a viable health sector to grow and stimulate the insurance sector and the Nigerian economy.
- Rural and urban sensitization and insurance education should be included in proposed law and be actively pursued by insurers, the government and all insurance partners for a better understanding of the role insurance play in society.
- The promulgation of separate insurance laws for all six geopolitical zones in Nigeria; taking into cognizance their unique religion, culture, habits and structure.
- Expand and create a separate NAICOM according to each region in Nigeria, to pull off excessive weight and pressure on the existing regulator. This will give focus, professionalism and effective monitoring of insurance practice and laws in the Nigerian region.

- Activate and fully incorporate remote online insurance services (primarily through telephone) to reach a wider population of Nigerians and promote insurance services to traditional rural communities that will stand the test of unforeseen risk situations.
- Promote and encourage private public partnerships and collaboration of other partners with the insurance sector to institute educational research funds in tertiary institutions of learning to lead discoveries on the future of insurance business in Nigeria and a way out of insurance apathy.

Acknowledgement

This is to acknowledge that **'Dr. Boma Geoffrey Toby, Department of Jurisprudence and International Law, Faculty of Law, Rivers State University, Nkpolu-Oroworukwo, Port Harcourt, Rivers State, Nigeria'** presented this paper at **'6th ICSTR Dubai - International Conference on Science & Technology Research, 19-20 February 2020'** at **'Flora Grand Hotel, Near Al Rigga Metro Station, Deira, Dubai, United Arab Emirates'.**

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