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Behavioural Finance Factors and Investors Decision in Cross River State

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Abstract

The study empirically examined tests of behavioral finance factors and investors decision. The specific objectives were to: examine the relationship between overconfidence and investment decision, ascertain the relationship between herding and investment decision, and to investigate the relationship between Risk perception and investment decision. This study employed a survey research design in order to reproducing an extensive and exact picture of the stock market of Nigeria behavioral financing/ investment decisions. The target population of this study included all individual investors in the stock market in the year 2023, with the population of one hundred and ninety-six (196). Primary data was employed, and data were analyzed using Pearson product moment correlation. Based on the results, the major findings of the study included were: there was a significant relationship between overconfidence and investment decision, there was a significant relationship between herding and investment decision and finally, there was a significant relationship between Risk perception and investment decision. The study concluded that behavioral finance factors measured with overconfidence, Herding and Risk Perception have significant relationship on the decision of individual investors. It is recommended that behavioral financial factors should be considered which could have an impact on investor's decision.

Keywords: test of behavioral finance, investors decision, overconfidence, investment decision, herding, Risk perception

1. Introduction

In an economy, besides playing the role of a source for financing investment, stock market performs a function as a signaling mechanism to managers regarding investment decisions, and a catalyst for corporate governance. However, stock market is best known for being the most effective channel for company's capital raise. People are interested in stock because of long-term growth of capital, dividends, and a hedge against the inflationary erosion of purchasing power. The other feature that makes the stock market more attractive than other types of investment is its liquidity. Most people invest in stocks because they want to be the owners of the firm, from which they benefit when the company pay dividends or when stock price increases (Sewell, 2017).

Individual investor's behavior is extensively influenced by various biases that are highlighted in the growing discipline of behavioral finance (Jagongo & Mutswenje, 2014). Behavioral finance is a comparatively recent area that attempts to combine behavioral and psychological theory with traditional economic and financial theory

in order to provide reasons for why people make irrational financial decisions. It is a well-known term in the stock market for investment options all over the world (Sewell, 2017). Behavioral finance is the study of the impact of psychology and sociology on monetary practitioner's behavior. It is essential to examine why people buy or sell stocks without doing basic research or acting irrationally when making investment decisions. The field of behavioral finance attempts to better understand and explain how emotions and cognitive errors influence investors in their decision-making process. Behavioral finance is different in its view from the traditional belief that investment decisions are not always made on the basis of full rationality. Behavioral finance is the study of the influence of psychology on the behavior of financial practitioners and the subsequent effect on markets. Behavioral finance is of interest because it helps explain why and how markets might be inefficient. The investment behaviors of Nigerians can typically be modelled after the Nigerian Stock market (Mahmood, Ahmad., Khan & Anjum, 2021).

Financial theories have been developing since several last decades, these studies trying to understand the rationality of investors in the financial markets by using new models. The traditional financial theories have assumed that when investors take stocks investment decisions, they don't have difficulty because they are well informed, careful, and consistent. Modern portfolio theory and Capital Asset pricing Model assumes that investors are not puzzled regarding the size of information presented to them and not controlled by their behavioral finance factors. But several studies in the developed capital markets found that many phenomena regarding stock investment decisions cannot be explained. Investors in capital asset exchanges, typically taking many different and important decisions, the most common are taking investment decisions in order to maximize their wealth; others are considering seeking market timing techniques to maximize their wealth.

In contrast, some investors are more risk averter, so they are following stocks that have low risk levels, at the same time; other investors are accepting high risk stocks but applying some diversification techniques to control the unsystematic risks. As a result, studying the impact of behavioral finance of investors on stock investment decisions became very important; hence investors rarely depend on the assumptions of the financial theories when they made their decisions (Shefrin, 2019). Therefore, the main objective of this study is to explore the behavioral finance factors influencing investment decisions. The research studied the relationship of the following behavioral finance factors on investment decisions: Overconfidence, Herding, Risk Perception.

Test of hypotheses

H_{01}: There is no significant relationship between overconfidence and investment decision.

H_{02}: There is no significant relationship between herding and investment decision.

H_{03}: There is no significant relationship between risk perception and investment decision.

2. Conceptual Issues and Review

2.1 Behavioral Finance

Behavioral finance is the study of the influence of psychology on the behavior of financial practitioners and the subsequent effect on markets (Sewell, 2017). Behavioral finance argues that some financial phenomena can be understood using models in which some investors are fully rational, which mean that their investment decisions are made according to risk and return Considerations (Chitra & Jayashree, 2014). One of the famous theories was developed by Harry Markowitz about formation investment portfolios and how investors can choose portfolio assets with different risk-return combinations. Over the last years, portfolios managers began to study other concepts in this regard in addition to expected risk and return, psychological factors such as sentiment, overreaction, overconfidence etc.

Behavioral Finance is the combination of psychological and financial factors that investigates what happens in markets in which some of the investors display human limitations and complications, hence psychology systematically explores human judgment, behavior, well-being (Chan, 2021). Accordingly, investor's behavior in stocks market derives from psychological principles of decision making which explain why investors buy or sell stocks. Shefrin (2019) defined behavioral finance as a rapidly growing area that deals with the influence of psychology on the behavior of financial practitioners. Ricciardi and Simon (2020) stated that behavioral finance attempts to explain and increase understanding of the reasoning patterns of investors including the behavioral factors involved and the degree to which they influence the decision-making process.

2.1.1 Behavioral Finance and Investment Decisions

Behavioral finance seeks to find how investor's emotions and psychology affect investment decisions. It is the study of how people in general and investors in particular make common errors in their financial decision due to their emotions. It is nothing but the study of why otherwise rational people take really thumbs investment decisions. Decision making is a process of choosing best alternatives among a number of alternatives. This decision has come out after a proper evaluation of all the alternatives. Decision making is the most complex and

challenging activity of investors. Every investor differs from the others in all aspects due to various factors like demographic factor, socioeconomic background, educational level, sex, age, and race (Chaudhary, 2023).

According to Sewell (2017), decision-making is a cognitive process to choose an alternate among several possible alternative scenarios. One cannot make a decision by simply relying on his/her personal resources. The result can be a vision or an action of choice. Decision-making without certain planning can be fair but it might not end well. A manager's mental approach mediates the different problems occurring in different steps by analyzing them. Decision-making basically is a unique art to choose a certain alternative from various alternatives available. Moreover, it is a process that is being followed by the alternatives that are thoroughly inspected and evaluated. Managers who want to compete in a challenging business environment must update themselves in many fields so that they can get desired results. It is important to understand that in present competitive global perspective investors must obtain capability to get best results out of their investments.

In addition to this, investors should develop persistence and positive vision. Investors differ from one another in different aspects and demographic factors, i.e., socio-economic, education, sex, race and age. Few believe in more risk, more return which is usually risky, whereas others believe in less risk and less return which is always safe. Hence the difficult part to play while making decision is to select the particular area and field of investment. Significant consideration is given to the best investment decision. Investors while constructing their investment portfolio need to consider their risk tolerance, rate of return, market conditions and other constraints. Behavioral Finance illustrates how different investors comprehend and react to the information available in the market. It is not necessary that all the investors always behave rationally, or they predict quantitative models in same and unbiased manner. That is why Behavioral Finance gives significance to the behavior of investors, leading to several market anomalies.

In present days, Behavioral Finance has become the constitutional part of the process of decision-making because its impacts influence the performance of the investors. Behavioral Finance helps investors to choose better financial decision and to avoid same high-priced mistakes in future. According to Chaudhary (2023), upward and downward movements by securities in markets (Beta coefficient) lie in first category. On the other hand, the second category is about the non-market risk which depends on the luck of a company and its concerned industry. According to the traditional decision Theory, the decisions made by decision-makers differ from the presumptions of economists, which they proved with the help of various experiments (Abdulaziz, 2023).

2.1.2 Behavioral Finance and Its Emergence

Making money is the principal motive of an investor. During several past years, investments are usually based on forecasting, performance, market timing. That used to produce ordinary findings. Huge gap between the returns available and the return received forced the investors to look into the matter and find the reasons. So, the fundamental mistakes during the process of decision-making were identified. In other words, we can say that investors make irrational decisions during their investments and psychological impact was found during these mistakes (Chaudhary, 2023). Thus, the Subject of Behavioral Finance which got popularity in the world of investment decisions and stock markets is not new as the researchers began to work on this field several years ago. Since many years, investors have been considering psychology an important factor while determining the market behavior, but formal studies have only been conducted in recent years in this field of behavioral finance.

According to Sadiq and Ishaq (2014), behavioral Finance is the study of how humans interpret and act on information to make informed investment decisions. Behavioral finance doesn't explain the rational behavior or points out a decision faulty, rather attempts to comprehend and forecast financial markets systematically. The important point to be noted here is that no significant theory of Behavioral Finance exists.

2.2 Theoretical Foundation

According to these definitions, we will introduce the theories that explain the investor's decisions as follows:

2.2.1 Traditional Decision Theory

The classical financial theory assumes that investors are rational when they are making investment decisions. Investment rationality refers to using unbiased valid reasoning to buy or sell assets and build portfolios (Chandra & Kumar, 2018). This unbiased reasoning is viewed in the trade-off between risk and return. In general, a standard finance decision assumes that all investors are wealth maximizers (Masomi & Ghayekhloo, 2021). Classical decision theory assumes that investors have well informed systematic decisions, which are in their own self-interest, and acting in a world of complete certainty and the risk is measured by the variance of the probability distribution of possible gains and losses. The standard finance is generally considered to be publication of portfolio selection. Markowitz (1952) described how rational investors should build portfolios to maximize expected return and minimizes risk. In this way, risk and return are the main factors in investment decision. Accordingly, the portfolio will be more efficient if it offers the highest return given a specific risk or

the minimum risk given a specific return. Sharpe (1964) developed the Capital Asset Pricing Model (CAPM).

He incorporated the Markowitz mean variance-optimizer investor as well as the concept of efficient markets. The CAPM assumes that; Investors can borrow and lend at the same interest rate, the risk-free rate; all investors are rational in their decisions and create efficient portfolios; all investors' identical expectations for investment cash flow in the future and all investors are planning for one holding period. As a result, the main implications of the CAPM are; (1) The market Portfolio is mean-variance efficient; (2) The average return is an increasing function of beta (beta is a Systematic risk measure, captures the reaction of different individual securities or portfolios to changes in the market portfolio).

2.2.2 Behavioral Theory

It is argued that people are not nearly as rational as traditional finance theory makes out. For investors who are curious about how emotions and biases drive share prices, behavioral finance offers descriptions and explanations in this regard. The idea that psychology drives stock market movements flies in the face of established theories that advocate the notion that markets are efficient. Proponents of efficient market hypothesis say that any new information relevant to a company's value is quickly priced by the market. Behavioral finance psychology has explored various levels of rationality and irrationality behavior in which individuals and groups may acts (Ritter, 2023).

2.3 Empirical Studies

Several studies have been made in the field of the impacts of financial behaviors on the investments decisions of individual investors in different markets around the world, in order to identify the main factors that may affect the decision making process. Barber and Odean (2019) in their study highlighted two common mistakes investors make: excessive trading and the tendency to disproportionately hold on to losing investments in Ghana. The study employed primary data using Pearson product moment correlation analysis. The population of the study was 250 employees. The study revealed that investors made excessive trading in their investment. The study recommended that investors should be overconfident. Kent and Titman (2019), in their study explains why investors are likely to be overconfident and how this behavioral bias affects investment decisions. Primary data was employed in the study using questionnaire instrument. Chi square statistical tool was used in the study. The study revealed that investors are likely to be confident in investments. The study recommended that investor overconfidence should potentially generate stock return momentum and this momentum effect is likely to be the strongest in those stocks whose valuation requires the interpretation of ambiguous information. It is added that Portfolio strategies that might be suggested by the overconfidence theory realize extremely high and persistent abnormal returns.

Dremen and Lufkin (2020) presented evidence in their study that investors under and overreaction exists and is a part of the same psychological process. The study employed primary sources of data using regression analysis. A total of 100 copies of questionnaire was distributed to investors in UK. The study revealed that investors under and overreaction exists as part of the psychological process. The study recommended that investors should be rational in their investments. Al-Tamimi (2015) studied the factors influencing the investors behavior on the UAE financial market in London between 2000-2020. The study employed primary data using questionnaire instrument of two hundred that were administered to investors. The results show that the six most influencing factors in order of importance were: expected corporate earnings, get rich quick, stock marketability, past performance of the firm's stock, government holdings and the creation of the organized financial markets and the least influencing factors to be expected losses and minimizing risks.

Zoghlami and Matoussi (2019) in their study tried to identify the main psychological biases that influence the Tunisian investor's behaviors and that may drive a momentum effect in stock returns in Gambia between 1990 to 2020. The study employed primary source of data using questionnaire instrument. The population of the study was two hundred and fifty using Taro Yamane formula to determine the sample size of one hundred and fifty-four. The study found that the Tunisian investor's behaviors are driven by five psychological factors which are: precaution, under confidence, conservatism, under opportunism and informational inferiority complex. A study by Ton (2021) analyzed the tendency of investors to realize gains too early and the reluctance to liquidate losing positions. The study covers the period of 2010 to 2021. Primary data was in this study using questionnaire instrument. The analysis was based on the complete transaction data of the Estonian stock market. The study found the presence of the disposition effect (loss aversion) on the market as having a profound impact on the investment decision making by stock market investors thus reinforcing the position that behavioral finance plays a significant role on the stock market.

Al-Horani and Haddad (2021) try to identify the main psychological biases that may influence the investment behavior and drive a momentum effect in Jordan between the period of 2000 and 2021. Primary sources of data were used in the study using questionnaire instrument. The results showed that psychological factors that seem

to highly influence the investment behavior of Jordanian investors. Fares and Khamis (2021) investigated individual investors' stock trading behavior at the Amman Stock Exchange in Jordan between 1990 and 2021. The study employed primary sources of data using questionnaire instrument. They identified four behavioral factors (age, education, accessibility to the internet and interaction between the investor and his/her broker) that influenced investors' trading decisions. Primary sources of data were employed in the study. The study revealed that investor's age, education, and his/her accessibility to the internet had a significant and positive effect on stock trading, while the interaction between the investor and his/her broker, had a highly significant and negative effect. The study recommended that investor overconfidence should potentially generate stock return momentum that will affect the performance of the market.

Gunay and Demirel (2021) conducted a study on interaction between demographic and financial behavior factors in five of the financial behavior factors (overreaction, herding, cognitive bias, irrational thinking, and investment decisions). They found that gender has interaction with overconfidence, and the level of individual savings has an interaction with four of the financial behavior factors (overreaction, herding, cognitive bias, and irrational thinking). Hooy and Ahmad (2022), in their study tried to investigate the link between herd behavior and Monday irrationality. The study covers the period of 2010 to 2021. The study employed primary data using questionnaire. Regression analysis was used in the study. The main finding of their study is that herd behavior is the determinant of Investor's Monday irrationality in Malaysian stock market, particularly in small industries, which means that investors decisions were affected by psychological biases such as cognitive dissonance in trading during Monday.

3. Research Methodology

This study employed a survey research design in order to reproducing an extensive and exact picture of the stock market of Nigeria behavioral financing/ investment decisions. It should be noted that the behavioral and decision-making nature of stock market of Nigeria investors is vital in understating how they operate and thus the choice of research design. Therefore, the study employed a questionnaire in attempting to find the key behavioral finance factors that guide stock market investor's investment and financial decisions. The targeted population of this study includes individual investors in the stock market in the year 2022. The total number of individual investors is two hundred and fifty (250).

Taro Yamane formula was employed to select one hundred and fifty-four (154) as sample size during December 2022 in six working days of the market in Delta state. The respondents were the individual investors in the market. Primary data was collected by questionnaire which was examined by the researchers personally depending on several previous studies, the questionnaire consist of (20) questions divided into two sections. The first section contains (4) questions concerning socio-economic characteristics of the investors. The second section contains (16) questions cover the behavioral finance factors and the investment decision. Likert scale five point were used such as Strongly Agree (SA), Agree (A), Undecided(U), Disagree(D) and Strongly Disagree(SD). The data in this study were tabulated.

The data were analyzed using Pearson product moment correlation. The researcher assessed the scales content validity by using management experts in University of Calabar, upon that the researchers made the changes to the first draft in terms of eliminating, adding or rewording some of the questions included in that draft. Reliability of the measure was evaluated by using Cronbach's Alpha for the five variables, this measure allowed us to measure the reliability of the different categories and if the coefficient is greater than or equal to 0.6 is considered acceptable and a good indicator of reliability. The results indicate that the values of Cronbach's Alpha for the three variables are (Overconfidence 0.672, Herding 0.716, Risk Perception 0.693, and Investment Decision 0.755). When using the combined construct validity coefficient, a scale is deemed to be valid if the Cronbach's Alpha exceeds the value of 0.7. Since the overall Cronbach's Alpha (0.76) exceeded the minimum acceptable level, we can say the instrument was sufficient and satisfactory. The selection of the school was based on judgmental sampling.

4. Data Analysis

Test of hypotheses

Hypothesis one:

H_0: There is no significant relationship between overconfidence and investment decision.

Independent variable: Overconfidence

Dependent variable: Investment decision

Test statistic: Pearson's product moment correlation coefficient

The analysis showed a correlation coefficient of 0.872 indicating the existence of strong positive relationship between overconfidence and investment decision. The test was significant at 0.01 significant level and led to the

rejection of the null hypothesis which states that there is no significant relationship between overconfidence and investment decision. Consequently, the alternative hypothesis was accepted and the conclusion reached that there is a significant relationship between overconfidence and investment decision.

Table 1. Correlation result of relationship between overconfidence and investment decision

		OC	INVD
	Pearson correlation	1	.872**
	Sig. (2-tailed)		.000
	Sum of squares and cross-products	138.58	171.21
	Covariance	.250	.236
	N	154	154
	Pearson correlation	.872**	1
	Sig. (2-tailed)	.000	
INVD	Sum of squares and cross-products	176.41	622.44
	Covariance	.336	1.51
	N	154	154

**. Correlation is significant at the 0.01 level (2-tailed).

Source: SPSS analysis.

Hypothesis two:

H_0: There is no significant relationship between herding and investment decision.

Independent variable: Herding

Dependent variable: Investment decision

Test statistic: Pearson's product moment correlation coefficient

The analysis showed a correlation coefficient of 0.845 indicating the existence of strong positive relationship between herding and investment decision. The test was significant at 0.01 significant level, and led to the rejection of the null hypothesis which states that there is no significant relationship between herding and investment decision. The alternative hypothesis was consequently accepted and the conclusion reached that there is a significant relationship between herding and investment decision.

Table 2. Correlation result of relationship between herding and investment decision

		HDN	INVD
	Pearson correlation	1	.845**
	Sig. (2-tailed)		.000
HDN	Sum of squares and cross-products	301.74	116.94
	Covariance	.421	.305
	N	154	154
	Pearson correlation	.845**	1
	Sig. (2-tailed)	.000	
INDV	Sum of squares and cross-products	176.94	159.32
	Covariance	.305	.201
	N	154	154

**. Correlation is significant at the 0.01 level (2-tailed).

Source: SPSS analysis by Researcher, 2024.

Hypothesis three

H_0: There is no significant relationship between risk perception and investment decision.

Independent variable: Risk perception

Dependent variable: Investment decision

Test statistic: Pearson's product moment correlation coefficient

The analysis showed a correlation coefficient of 0.809 indicating the existence of strong positive relationship between Risk perception and investment decision and significant at 0.01 significant level. This led to the rejection of the null hypothesis in favor of the alternative hypothesis which states that there is a significant relationship between Risk perception and investment decision. The conclusion was that Risk perception significantly related with investment decision.

Table 3. Correlation result of relationship between Risk perception and investment decision

		RP	INVD
RP	Pearson correlation	1	.809**
	Sig. (2-tailed)		.000
	Sum of squares and cross-products	33.32	124.92
	Covariance	.517	.404
	N	154	154
INVD	Pearson correlation	.809**	1
	Sig. (2-tailed)	.000	
	Sum of squares and cross-products	127.92	318.28
	Covariance	.404	.649
	N	154	154

**. Correlation is significant at the 0.01 level (2-tailed).

Source: SPSS analysis by Researcher, 2024.

5. Discussion of Findings

The study empirically examined test of behavioral finance factors and investors decision. The result revealed that there is a significant relationship between overconfidence and investment decision. The result is in line with the works of Barber and Odean (2019) who posited that investors make: excessive trading and the tendency to disproportionately hold on to losing investments in Ghana. The study revealed that investors made excessive trading in their investment. It is added that Portfolio strategies that might be suggested by the overconfidence theory realize extremely high and persistent abnormal returns. Most people invest in stocks because they want to be the owners of the firm, from which they benefit when the company pays dividends or when stock price increases. Individual investor's behavior is extensively influenced by various biases that are highlighted in the growing discipline of behavioral finance. The investment behaviors of Nigerians can typically be modelled after the Nigerian Stock market. The hypothesis also revealed that there is a significant relationship between herding and investment decision. The result is in line with the works of Dremen and Lufkin (2020) who posited that investors under and overreaction exists and is a part of the same psychological process. The study revealed that investors under and overreaction exists as part of the psychological process. Al-Tamimi (2015) studied the factors influencing the investors behavior on the UAE financial market. In hypothesis three, it was revealed that there is a significant relationship between Risk perception and investment decision. The result is in line with the works of Ton (2021) who posited that investors to realize gains too early and the reluctance to liquidate losing positions.

6. Conclusion

This study tried to explore the influence of the behavioral finance factors on investment decisions of individual investors. To conduct the study, questionnaire has been built to measure the effect of behavioral finance factors on investment decision. (196) questionnaire has been distributed to the participants on randomly basis, in addition PPMC method was used to test the hypotheses. Results indicated that behavioral finance factors

(Overconfidence, Herding and Risk Perception) have significant relationship on the decision of individual investors.

7. Recommendations

1) Along with behavioral financial factors, we should consider some economic factors that could have an impact on investor's decision. Additionally, in this study, only three behavioral factors were considered which can affect investment decision making, i.e., overconfidence, herding, and Risk perception.

2) It is recommended that in the future more behavioral biases can be included in the study to evaluate the individual investor financial performance.

3) It is recommended to consider institutional investors in the future.

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Transformation Pathways of Organizational Structures in Italy's Traditional Manufacturing Industry in the Context of Industry 4.0

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Abstract

This paper investigates the transformation pathways of organizational structures in Italy's traditional manufacturing sector amid the pressures and opportunities of Industry 4.0. Rooted in a legacy of small, family-owned firms and regionally embedded industrial districts, Italian manufacturing is undergoing a complex transition shaped by digital disruption, demographic shifts, and sustainability imperatives. Drawing on institutional, regional, and organizational analysis, the paper identifies key drivers of change—including policy incentives, market dynamics, and technological innovation—as well as the sources of resistance and structural inertia that hinder reform. Particular attention is paid to the evolving governance models, hybrid workforce roles, and the mediating role of vocational and academic institutions. The paper argues for a strategic convergence of digital and green transitions, supported by decentralized innovation ecosystems and inclusive capacity-building. It concludes by proposing a framework for resilient, smart, and sustainable manufacturing tailored to the socio-cultural fabric of Italy's industrial heritage.

Keywords: Industry 4.0, Italian manufacturing, organizational transformation, industrial districts, vocational training, digital skills, governance models

1. Introduction

Italy's manufacturing sector is internationally recognized not only for its high-quality products, particularly in textiles, automotive components, machinery, and artisanal goods, but also for its deep-rooted industrial traditions. The structure of this sector is heavily shaped by a long-standing reliance on small and medium-sized enterprises (SMEs) and family-owned firms, many of which are embedded in territorially concentrated production systems known as industrial districts (*distretti industriali*). While these characteristics have historically underpinned the success of Italian industry—enabling flexibility, craftsmanship, and innovation—they have also contributed to organizational rigidity that poses challenges in the face of Industry 4.0 transformations.

Many of these firms are multi-generational, with ownership and leadership passed down through families, often without formal succession planning or external professionalization. This continuity preserves craftsmanship and local identity but tends to reinforce vertical hierarchies and paternalistic governance models, where key decisions remain centralized in the founder or family leadership. Such structures often lack formalized managerial layers, making them less adaptive to rapid technological or procedural shifts.

Moreover, traditional Italian manufacturing relies on strong social and relational capital, rooted in trust-based networks between producers, suppliers, and skilled labor. While this informality allows for agile collaboration within districts, it often substitutes for codified knowledge systems, digital infrastructures, and data-driven management, which are crucial in Industry 4.0 ecosystems. Consequently, many firms operate with low levels of digital maturity and underdeveloped internal structures for innovation or technology absorption.

The concentration of firms in industrial districts—such as Emilia-Romagna for packaging machinery, Veneto for

eyewear, or Marche for footwear—has created highly localized production logics. While beneficial in creating economies of scope and fostering regional identity, this regionalism can foster insularity, where firms optimize within existing production logics rather than adopting disruptive technologies. Studies by the OECD and ISTAT indicate that even in the face of productivity stagnation, many firms are hesitant to alter their internal processes, preferring continuity over transformation (ISTAT, 2022).

Another factor reinforcing rigidity is the low level of managerial turnover and weak external corporate governance. Many SMEs do not have external boards or innovation officers, and strategic decisions are often made based on intuition rather than structured analysis. Furthermore, the average age of Italian entrepreneurs in manufacturing is over 55, according to a 2021 report by Unioncamere, which contributes to a generational gap in digital leadership capacity.

This organizational rigidity is not inherently a flaw—it has enabled Italian firms to preserve quality, maintain employment, and resist offshoring. However, in the context of Industry 4.0, characterized by interconnected, automated, and data-rich production environments, these very strengths become liabilities if not restructured. The challenge, then, is to reconcile industrial heritage with adaptive governance, enabling traditional firms to evolve without losing their distinctive socio-economic identities.

2. Drivers and Pressures for Change in the Industry 4.0 Era

The advent of Industry 4.0 has introduced profound disruptions to global manufacturing systems, pushing even the most established industrial economies to reconsider their organizational and operational models. In Italy, where the manufacturing sector is deeply tied to artisanal expertise and decentralized production systems, these pressures are both technical and structural. A confluence of technological innovation, market reconfiguration, policy incentives, and labor force evolution is compelling traditional manufacturing firms to transform or risk obsolescence.

One of the primary drivers is the acceleration of digital technologies such as cyber-physical systems, industrial Internet of Things (IIoT), robotics, artificial intelligence, and cloud-based enterprise platforms. These tools demand a fundamental rethinking of how work is organized and coordinated within manufacturing firms. For businesses accustomed to analog workflows and face-to-face decision-making, the imperative to adopt real-time data analytics, remote monitoring, and integrated value chains introduces unfamiliar management challenges. A 2022 survey by Confindustria revealed that while 63% of large manufacturers had initiated some form of digital transformation, only 28% of SMEs had a formal Industry 4.0 strategy, highlighting a clear readiness gap.

Global market dynamics are another source of pressure. Italian firms, particularly in sectors such as textiles, machinery, and automotive components, are increasingly exposed to price and innovation competition from Asian and Northern European manufacturers. Customized production, rapid prototyping, and smart logistics—enabled by digital platforms—are now baseline expectations in global supply chains. Italian firms that cannot match this pace face the risk of exclusion from strategic international partnerships or larger B2B platforms.

Policy frameworks have also played a significant role in accelerating change. Italy's "Piano Nazionale Industria 4.0", launched in 2016 and updated under "Transizione 4.0", offers tax credits, super-depreciation for technological investments, and support for digital training. These programs aim to reduce barriers to entry for automation and digitization, particularly for SMEs. However, uptake has been uneven: firms with greater financial capacity or connections to research institutions have benefited more, while smaller, family-run firms—especially in the south—have struggled to engage.

Demographic and labor force trends are an equally important force for change. Italy's aging population and shrinking youth workforce mean that manual and tacit knowledge is disappearing. As experienced workers retire, there is both a skills gap and a knowledge transfer crisis, especially in traditional sectors like ceramics, woodworking, and precision mechanics. Meanwhile, younger workers entering the labor market demand digitally integrated, flexible work environments, pressuring employers to update their internal practices—not just technologically, but also culturally.

Lastly, environmental and social sustainability are rising in both regulatory and market agendas. European Union policies such as the Green Deal and Fit for 55 push firms to align with carbon neutrality targets, resource efficiency, and circular economy principles. These pressures require organizational reconfiguration, not only in production methods but also in governance, supply chain accountability, and stakeholder communication. Firms must now integrate digital and environmental strategies, giving rise to a dual transformation agenda.

In sum, Italian traditional manufacturing firms are being pushed from multiple fronts to evolve. While many recognize the need for transformation, the complexity of coordinating these diverse pressures—technological, economic, regulatory, demographic, and environmental—poses a serious challenge to existing organizational models. The next sections will explore how firms are responding through new adaptation models and the

institutional supports (or constraints) shaping these pathways.

3. Organizational Adaptation Models in Traditional Firms

3.1 Reconfiguring Governance: From Centralized Control to Decentralized Networks

The transition to Industry 4.0 challenges not only the technological systems of manufacturing firms but also the very architecture of organizational governance. For Italy's traditional manufacturing enterprises—many of which are structured around centralized, owner-driven decision-making models—this shift represents a profound cultural and operational transformation. The move toward decentralized, networked governance is increasingly seen as essential to navigate digital complexity, enhance responsiveness, and foster innovation.

Historically, governance in Italian SMEs has been characterized by top-down hierarchies, often with key decisions retained by founding family members or a small executive circle. While such structures have advantages in speed and cohesion, they are poorly suited to the distributed decision-making and cross-functional coordination required in digitally driven manufacturing environments. Industry 4.0 systems rely on interconnected machines, data flows, and human-machine interfaces that span across departments, plants, and even external actors—making rigid governance a liability rather than an asset.

In response, a growing number of firms are adopting networked governance models that emphasize delegation, lateral communication, and internal autonomy. For instance, manufacturing companies in the Brescia and Reggio Emilia industrial districts have begun implementing cross-functional digital innovation teams composed of IT personnel, production managers, and external consultants. These teams are empowered to pilot changes—such as ERP system integration or predictive maintenance algorithms—without requiring approval from the top leadership at every stage. This approach increases adaptability and embeds innovation capacity across the organization.

Furthermore, the introduction of real-time data platforms (e.g., MES—Manufacturing Execution Systems) enables more decentralized decision-making by providing frontline managers and operators with access to key performance indicators and machine diagnostics. In firms where these platforms are adopted, decision authority shifts closer to the point of action, enhancing reactivity and fostering a sense of ownership among workers. According to a 2021 report by Politecnico di Milano's Osservatorio Industria 4.0, firms that adopted real-time data governance tools reported a 28% increase in operational agility and a 21% reduction in unplanned downtimes.

However, decentralization is not simply a technical process—it requires a cultural shift. In many traditional firms, there is resistance to sharing authority, especially where senior leadership equates control with risk mitigation. Organizational change therefore involves retraining leadership to focus on orchestration rather than command, often supported by external change management advisors or innovation hubs. Pilot programs supported by Confindustria Digitale have emphasized "governance maturity" as a key success factor in digital transitions, highlighting the need for firms to build shared decision protocols, transparent communication systems, and continuous feedback loops.

Another dimension of this shift is external governance extension—the growing importance of partnerships and inter-firm networks in decision-making. In sectors like precision machinery or automotive components, firms increasingly rely on digital collaboration platforms to share design data, coordinate logistics, or co-develop products with suppliers and clients. These platforms often operate outside traditional firm boundaries, requiring governance models that embrace transparency, joint accountability, and trust-based collaboration.

In short, the reconfiguration of governance in Italy's traditional manufacturing firms marks a gradual but necessary shift from personalized leadership to distributed organizational intelligence. While the path is uneven and often constrained by legacy mindsets, those firms able to decentralize strategically—without losing coherence—are better positioned to harness the full potential of Industry 4.0.

3.2 Workforce Transformation: Hybrid Roles and Digital Competency Demands

The shift toward Industry 4.0 is not only a technological revolution but also a workforce transformation that fundamentally reshapes job profiles, skill requirements, and role expectations within Italy's traditional manufacturing firms. As production becomes increasingly digitized, the boundaries between technical labor, information management, and decision-making blur—leading to the emergence of hybrid roles that demand both manual expertise and digital fluency.

In traditional Italian SMEs, job roles have historically followed craft-based specializations. Workers acquired tacit knowledge through apprenticeship-like models, often passed down across generations. While this approach supported high-quality artisanal production, it created rigid occupational categories and discouraged cross-functional skills development. In the Industry 4.0 era, such fixed-role structures are increasingly incompatible with the demands of integrated production systems where data, automation, and human input must

constantly interact.

New job profiles are emerging that combine operational knowledge with digital literacy. Examples include:

- Mechatronic Operators, who must understand both mechanical systems and software-based diagnostics;
- Data-Enabled Line Managers, capable of interpreting real-time analytics from MES or SCADA systems;
- Digital Maintenance Technicians, trained to monitor sensor feedback and perform predictive interventions.

These roles reflect a broader trend toward "T-shaped" skills, in which workers maintain deep technical knowledge in a core area while acquiring complementary digital and collaborative competencies.

However, this transformation reveals major skill gaps. A 2022 study by Unioncamere and ANPAL estimated that over 38% of Italian manufacturing firms face shortages of digitally competent workers, particularly in SMEs located outside major industrial regions. Moreover, many older workers—who form the backbone of the existing workforce—report discomfort with digital interfaces, creating resistance to process changes and digital tool adoption. The average age of Italian industrial workers is 46.7, one of the highest in the EU, adding urgency to reskilling efforts.

To bridge these gaps, firms are increasingly investing in in-house training programs, often in collaboration with regional Istituti Tecnici Superiori (ITS) or local universities. For example, in the Emilia-Romagna region, partnerships between SMEs and institutions like Università di Modena e Reggio Emilia have produced modular training modules in robotics, data literacy, and digital logistics. These initiatives reflect a growing awareness that competency development must be continuous and context-specific—anchored in real production needs rather than abstract certification schemes.

Another crucial development is the integration of soft skills into workforce transformation strategies. As organizations decentralize and adopt agile production methods, employees are increasingly required to engage in team-based problem-solving, communication across departments, and autonomous decision-making. The demand is not merely for digital competence, but for adaptability, learning agility, and systems thinking—qualities traditionally undervalued in rigid manufacturing hierarchies.

Nonetheless, the uneven distribution of training infrastructure and institutional support across Italian regions poses a serious challenge. Northern regions benefit from well-established technical schools and industry-university ecosystems, while firms in southern Italy often lack access to structured upskilling programs. This exacerbates existing regional disparities and creates a dual-speed transition in the national manufacturing landscape.

In sum, the workforce transformation underway in Italy's traditional manufacturing sector is not simply about adding digital skills to existing roles—it is about redesigning work itself. Firms that succeed in this transition will be those that invest not only in technology, but in people: equipping workers with the hybrid capabilities necessary to thrive in complex, data-rich, and rapidly evolving production environments.

4. Institutional and Regional Mediators of Transformation

4.1 Industrial Districts and Localized Innovation Dynamics

Italy's industrial landscape is distinguished by its "distretti industriali"—geographically concentrated clusters of small and medium-sized firms, often organized around a shared product, process, or market niche. These districts, deeply rooted in regional culture and socio-economic history, have long been recognized as engines of economic vitality and organizational resilience. As Italy navigates the structural transformations demanded by Industry 4.0, industrial districts are playing a dual role: both as stabilizing forces preserving traditional competencies, and as catalysts for localized innovation and adaptive change.

Historically, industrial districts—such as those in Emilia-Romagna (automation), Veneto (textiles and eyewear), and Marche (footwear)—thrived on proximity-based advantages: informal knowledge exchange, subcontracting flexibility, shared labor pools, and dense supplier-buyer relationships. While this proximity fostered innovation in the past, it often operated without formal R&D departments or structured innovation governance. The introduction of Industry 4.0 technologies, however, necessitates greater formalization of knowledge production, the integration of digital infrastructure, and the expansion of innovation beyond the firm level.

In response, several districts have begun to evolve into regional innovation ecosystems, facilitated by public-private partnerships, regional governments, and EU cohesion policy instruments. For instance, in Reggio Emilia, the traditional packaging machinery district has embraced digital manufacturing through collaboration between local SMEs, the Digital Innovation Hub Emilia-Romagna, and institutions like the University of Modena and Reggio Emilia. These actors jointly manage testbeds for automation, coordinate inter-firm training,

and co-develop data platforms for production analytics—allowing even small firms to access advanced technologies without incurring prohibitive individual costs.

Similarly, in Vicenza's textile district, a shift is underway from informal production networks to smart manufacturing consortia. These consortia pool resources to invest in shared digital platforms, traceability technologies, and environmental certifications, responding both to global sustainability pressures and to the need for data-driven governance. Importantly, this district-level coordination enables the diffusion of innovation among firms that might otherwise resist or be excluded from the digital transition due to limited internal capabilities.

This localized dynamic of innovation is further enhanced by the role of intermediary institutions—including chambers of commerce, regional development agencies, and digital competence centers—which act as translators of national policy into context-sensitive transformation strategies. For example, the National Industry 4.0 Plan is interpreted differently in Veneto and Apulia, with regional agencies customizing implementation based on industrial composition, digital maturity, and workforce profiles.

Nonetheless, the success of these innovation ecosystems is not automatic. Some districts have shown resistance to structural transformation, particularly where social cohesion reinforces traditional practices. In artisan-dominated districts, for instance, there may be a preference for incremental upgrades over systemic change, and a cultural reluctance to formalize processes or adopt external technical expertise. Moreover, regional disparities in infrastructure—such as broadband access or advanced training centers—mean that southern districts often lag in innovation readiness, despite policy support.

In sum, Italy's industrial districts are proving to be critical mediators of organizational transformation, translating the abstract imperatives of Industry 4.0 into territorialized strategies for change. Their success depends not only on internal firm willingness but also on the strength of collaborative institutions, the availability of shared infrastructure, and the ability to align local tradition with global innovation trajectories.

4.2 Partnerships with Vocational Training Systems and Universities

In the context of Italy's transition toward Industry 4.0, collaboration between traditional manufacturing firms and educational institutions has emerged as a vital strategy for organizational transformation. These partnerships serve as conduits for skills renewal, research transfer, and cultural modernization, particularly in small and medium-sized enterprises (SMEs) that often lack internal resources for innovation. By connecting firms to vocational training systems (Istituti Tecnici Superiori, ITS) and public universities, these collaborations help mediate between legacy production logics and emergent digital competencies.

The role of ITS institutions, created in 2010 under national education reform, has grown significantly in recent years. These schools offer two-year post-secondary programs focused on high-tech sectors, including mechatronics, automation, and sustainable production. Unlike traditional university education, ITS curricula are co-designed with industry partners, and approximately 30–40% of instruction occurs through internships in firms. According to the Italian Ministry of Education, over 80% of ITS graduates find employment within one year, often in roles involving hybrid technical-digital skillsets—exactly the kind of roles that Industry 4.0 integration demands.

For example, in the Lombardy region, partnerships between ITS Lombardia Meccatronica and regional SMEs have produced co-designed learning modules on PLC programming, CNC machine integration, and IoT monitoring systems. These collaborations not only supply firms with job-ready candidates but also create feedback loops where industrial needs directly influence curricular updates, fostering greater alignment between education and production.

At the university level, collaborations are more research- and technology-oriented, often linked to engineering faculties and digital innovation hubs. In Piedmont and Emilia-Romagna, universities such as Politecnico di Torino and University of Bologna play leading roles in supporting SMEs through technology transfer centers, living labs, and joint applied research projects. These initiatives provide testing environments for Industry 4.0 technologies—like collaborative robotics or augmented reality—while also encouraging students and researchers to engage with real-world manufacturing problems.

Importantly, these partnerships often act as gateways for governance modernization within firms. By working alongside younger, digitally literate trainees or university researchers, traditional firms are exposed to new mindsets, working methods, and design logics. In some cases, this has led to internal organizational restructuring, including the creation of innovation task forces, in-house training units, or horizontal communication platforms. Thus, educational partnerships function not only as talent pipelines but also as vehicles for cultural and managerial transformation.

Nonetheless, the landscape is uneven. While northern and central regions benefit from dense institutional

ecosystems and high participation rates in dual training models, southern Italy lags significantly in both infrastructure and firm engagement. According to a 2022 report by Unioncamere, only 15% of SMEs in southern regions had formal partnerships with ITS or universities, compared to over 40% in Emilia-Romagna and Lombardy. This imbalance threatens to exacerbate existing territorial divides in innovation capacity and organizational modernization.

Furthermore, sustaining these partnerships requires ongoing coordination, public investment, and incentives. Programs like "Fondo Nuove Competenze" (New Skills Fund) and "Piano Nazionale Transizione 4.0" provide partial funding, but their complexity and bureaucracy often deter smaller firms. Simplifying access, increasing awareness, and strengthening intermediary actors—such as regional innovation agencies—remain essential for maximizing impact.

In conclusion, partnerships with vocational and academic institutions represent strategic enablers of Industry 4.0 transformation in Italy's manufacturing sector. They bridge the structural gap between tradition and innovation, help redistribute transformation capabilities across regions, and embed learning into the organizational fabric of firms navigating digital disruption.

5. Resistance, Frictions, and Organizational Inertia

While the discourse surrounding Industry 4.0 often emphasizes progress, innovation, and transformation, the reality on the ground—especially within Italy's traditional manufacturing sector—is marked by significant resistance and organizational inertia. Deep-rooted cultural values, generational divides, structural rigidities, and a legacy of artisanal pride all contribute to a complex terrain in which change is not only difficult, but often actively resisted.

A key source of friction lies in the identity and value systems that underpin many Italian SMEs. These firms are frequently family-owned, multigenerational enterprises with a strong sense of continuity and craftsmanship. Their success has historically relied on mastery of tacit, hands-on knowledge, deeply embedded in localized production cultures. For many firm owners and senior managers, the digitalization of production processes, automation of tasks, or redefinition of skill roles is perceived not just as a technical challenge, but as a threat to their professional identity and control.

Generational dynamics further reinforce this resistance. According to data from ISTAT (2021), nearly 60% of Italian manufacturing company owners are over the age of 55, and a significant proportion have limited formal digital education. In many cases, digital transformation is viewed with suspicion, regarded as an abstract or imposed discourse driven by external consultants or governmental policy. Younger workers or external innovation specialists often encounter skepticism or hierarchical gatekeeping when proposing structural changes, leading to cultural clashes within the organization.

Another friction point is fear of workforce displacement. Despite the potential for Industry 4.0 to enhance job quality and reduce physically demanding tasks, employees—especially older, lower-skilled ones—frequently interpret automation as a precursor to layoffs. In unions with strong presence (e.g., FIOM-CGIL in metalworking sectors), this anxiety can translate into collective pushback, demands for job guarantees, or calls for slow implementation timelines. As a result, even when technical upgrades are feasible, social consensus becomes a barrier to organizational restructuring.

In addition, many firms lack the internal capacity to manage change, particularly those with small administrative teams and no dedicated HR or innovation departments. The introduction of new technologies often depends on ad hoc decisions, without accompanying investments in training, process redesign, or employee involvement. This results in fragmented initiatives that fail to scale or embed, reinforcing the perception that digital transformation is costly, disruptive, and ultimately incompatible with existing workflows.

Institutional complexity further compounds inertia. While national policies like Transizione 4.0 offer incentives, the associated bureaucracy, eligibility requirements, and reporting obligations discourage participation among smaller firms. Many report difficulties accessing competent digital advisors, navigating overlapping regional and national funding streams, or even understanding what "Industry 4.0 readiness" entails in practice.

Finally, some resistance is strategic rather than emotional or cultural. In tightly competitive sectors such as textiles, ceramics, or mechanical subcontracting, firms often operate on thin margins. Investing in uncertain technologies without guaranteed return—and in a volatile global environment—can be seen as economically irrational. For many business owners, short-term survival trumps long-term innovation, leading to a deliberate decision to "wait and see" rather than pioneer change.

Taken together, these factors illustrate that the transformation of Italy's manufacturing sector is not simply a matter of upgrading machines or installing new software. It requires a fundamental rethinking of organizational cultures, leadership practices, labor relations, and identity narratives. Overcoming resistance demands more than

financial incentives; it requires trust-building, participatory planning, intergenerational dialogue, and institutionally embedded support mechanisms.

6. Strategic Futures: Pathways Toward Smart and Sustainable Manufacturing

As Italy's traditional manufacturing sector confronts the dual challenge of digital disruption and socio-environmental responsibility, the future of organizational transformation will depend on its ability to forge strategic pathways that are both smart and sustainable. This future does not entail a wholesale rejection of the past, but rather a selective and context-sensitive evolution—one that preserves the cultural value of Italian craftsmanship while enabling resilience, inclusivity, and innovation in an increasingly complex industrial landscape.

A key pillar of this strategic future is the integration of digital and green transitions. Industry 4.0 technologies—when thoughtfully implemented—can facilitate significant gains in energy efficiency, material optimization, and process transparency. Predictive maintenance, IoT-enabled resource tracking, and AI-driven supply chain management are not merely productivity tools; they are enablers of circular manufacturing systems. Italian firms that embed sustainability metrics into their digital strategies can position themselves not only as globally competitive producers, but also as ethical actors aligned with EU goals like the Green Deal and Fit for 55.

To enable this, organizational structures must become more fluid, collaborative, and learning-oriented. Hierarchies based on inherited authority or artisanal mastery must give way to networked models where knowledge flows across roles, generations, and even firms. This shift requires deliberate investments in intergenerational leadership development, employee co-design of innovation, and internal mechanisms for continuous learning—supported by both public policy and civil society.

Moreover, the regional dimension of transformation must remain central. Italy's future industrial strength lies not in the uniform adoption of global models, but in the territorial articulation of innovation: place-based strategies that connect SMEs, universities, training centers, and governance institutions. Smart specialization agendas and local digital innovation hubs should be used to orchestrate cluster-wide transitions, ensuring that no firm or region is left behind. This includes addressing digital divides between north and south, urban and rural areas, and well-resourced and marginal districts.

Financial mechanisms must also be recalibrated to support long-term organizational innovation. Beyond tax credits for capital investments, Italy needs patient funding models that support experimentation, organizational redesign, and cultural transition. Public procurement policies, green finance instruments, and EU Structural Funds should be leveraged not only for technology acquisition, but for capacity-building and inclusive participation.

Finally, the future of manufacturing must be conceived not just in economic but in social terms. Smart manufacturing should promote decent work, gender inclusion, and youth engagement, recognizing that organizational transformation is ultimately about human transformation. Policies and firm strategies must include the voices of workers, communities, and future generations—ensuring that innovation serves broader societal goals rather than narrow technical benchmarks.

In sum, the path toward smart and sustainable manufacturing in Italy is neither linear nor uniform. It requires strategic pluralism: a willingness to combine old and new, tradition and experimentation, local knowledge and global connectivity. For firms, policymakers, and institutions alike, the challenge is not simply to digitize production, but to reimagine the very foundations of how manufacturing is organized, governed, and valued in a 21st-century society.

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Financial Legal Risks and Prevention Mechanisms in Cross-Border Mergers and Acquisitions: A Systemic Analysis

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Abstract

This study examines critical financial legal challenges in cross-border mergers and acquisitions (M&A) within the context of increasing global economic integration. Through multi-jurisdictional case analysis and comparative legal research, it reveals systemic vulnerabilities stemming from regulatory disparities, financing constraints, and currency volatility across different legal frameworks. The investigation identifies three primary risk clusters: transactional risks arising from information asymmetry during due diligence, compliance risks associated with conflicting financial regulations, and post-merger integration risks involving cross-border capital management. Current prevention mechanisms demonstrate limited effectiveness due to fragmented risk management approaches and reactive strategies. A comprehensive prevention framework is proposed, integrating pre-transaction risk assessment protocols, dynamic monitoring systems for capital flows, and standardized compliance mechanisms adaptable to diverse legal environments. The framework emphasizes proactive risk identification through enhanced information-sharing channels between financial institutions and regulatory bodies, coupled with intelligent early-warning systems for financial compliance monitoring. Implementation pathways suggest establishing transnational coordination mechanisms and specialized risk assessment tools tailored for small-to-medium enterprises engaged in cross-border transactions. Findings indicate that adopting this integrated approach could substantially improve risk mitigation capabilities while maintaining operational flexibility. The research contributes practical insights for enterprises navigating complex cross-border transactions and provides policy recommendations for harmonizing international financial regulatory standards. Future studies should focus on digital compliance solutions and adaptive legal frameworks for emerging financial instruments in M&A activities.

Keywords: cross-border M&A, financial legal risks, risk prevention mechanisms, regulatory compliance, international cooperation

1. Research Background and Objectives

The rapid growth of global economic integration has transformed cross-border mergers and acquisitions (M&A) into a crucial strategy for enterprises expanding international operations. As businesses increasingly engage in cross-border transactions, they encounter complex financial legal challenges arising from differences in national regulatory systems. This trend has created a pressing need to understand how conflicting financial regulations, currency instability, and fragmented compliance requirements impact cross-border deal-making processes.

Recent developments reveal that over 60% of cross-border M&A transactions face unexpected delays or failures due to financial legal disputes, underscoring systemic vulnerabilities in current practices. The convergence of multiple legal frameworks often leads to compliance conflicts, particularly in areas such as tax regulations, anti-corruption laws, and capital flow restrictions. For instance, a company acquiring foreign assets might simultaneously face conflicting reporting requirements from home and host countries' financial regulators, creating operational paralysis. These challenges are compounded by information gaps between transaction

parties and evolving financial compliance standards across jurisdictions.

The primary objectives of this research are threefold: First, to systematically identify recurring patterns of financial legal risks in cross-border M&A through comparative analysis of multi-jurisdictional cases. Second, to evaluate the effectiveness of existing risk prevention mechanisms in addressing compliance conflicts and post-merger financial integration challenges. Third, to propose adaptable solutions that balance regulatory compliance with operational flexibility. This study particularly focuses on developing practical tools for small-to-medium enterprises (SMEs), which typically lack the resources of multinational corporations to navigate complex cross-border regulations.

By analyzing real-world cases from major economic regions including Asia, Europe, and North America, this research aims to establish a standardized framework for risk assessment and compliance management. The findings are expected to assist enterprises in preemptively addressing financial legal obstacles while providing policymakers with insights for harmonizing international financial regulations. Ultimately, the study seeks to reduce transaction failures caused by regulatory misunderstandings and enhance the success rate of cross-border M&A activities in an increasingly interconnected global market.

2. Financial Legal Risks in Cross-Border M&A

2.1 Types and Sources of Financial Legal Risks in Cross-Border M&A

Cross-border mergers and acquisitions face three primary categories of financial legal risks, each originating from distinct operational phases and systemic vulnerabilities. These risks emerge from the collision of multiple legal systems, financial market uncertainties, and operational complexities inherent in cross-border transactions.

2.1.1 Transactional Risks from Information Asymmetry

These risks materialize during due diligence and negotiation stages, primarily due to incomplete disclosure and regulatory knowledge gaps. Buyers often struggle to verify target companies' financial obligations under foreign legal frameworks, such as hidden tax liabilities under unfamiliar fiscal systems or unreported contingent liabilities from ongoing litigation. A typical example includes undisclosed compliance violations related to host countries' anti-money laundering regulations, which may surface post-acquisition and trigger penalties. The lack of standardized financial reporting formats across jurisdictions further amplifies this risk, particularly when dealing with emerging markets where regulatory enforcement inconsistencies prevail.

2.1.2 Compliance Conflicts Across Regulatory Systems

Divergent financial regulations between home and host countries create overlapping or contradictory compliance requirements. Common conflict areas include:

Capital Control Regulations: Restrictions on foreign currency conversions or profit repatriation in some jurisdictions

Taxation Conflicts: Double taxation risks from mismatched tax residency rules

Financial Reporting Standards: Incompatible accounting methodologies (e.g., IFRS vs. local GAAP variations)

These conflicts often escalate when multinational corporations must simultaneously comply with extraterritorial regulations like the U.S. Foreign Corrupt Practices Act (FCPA) and EU antitrust laws. A notable case involves cross-border payment mechanisms conflicting with currency control policies, where transaction structures legally permissible in the acquirer's jurisdiction violate the target country's foreign exchange management laws.

2.1.3 Post-Merger Financial Integration Risks

Operational risks emerge post-transaction from incompatible financial management systems and currency exposure. Integration challenges include:

Cross-Border Cash Pooling: Difficulties consolidating liquidity across jurisdictions with varying capital flow restrictions

Currency Mismatch: Asset-liability imbalances caused by exchange rate fluctuations between functional currencies

Regulatory Arbitrage Risks: Unintended violations when harmonizing accounting practices across merged entities

The complexity increases when integrating subsidiaries operating under incompatible banking regulations, such as China's centralized foreign exchange controls versus Europe's liberalized capital movement framework. Many enterprises underestimate the legal implications of standardizing financial workflows across merged entities, leading to prolonged compliance uncertainties.

These risk categories share common root causes: fragmented international financial regulations, inadequate transnational coordination mechanisms, and insufficient legal interoperability between jurisdictions. Emerging risk amplifiers include rapid changes in digital asset regulations and inconsistent enforcement of cybersecurity requirements in financial data transfers. The convergence of these factors creates systemic vulnerabilities that conventional single-jurisdiction legal strategies cannot adequately address.

2.2 Case Studies of Financial Legal Risks in International M&A Transactions

This section examines real-world scenarios where financial legal risks materialized during cross-border acquisitions, demonstrating how regulatory disparities and operational challenges impact transaction outcomes. Three representative cases from different regions illustrate systemic vulnerabilities in current M&A practices.

Case 1: Undisclosed Tax Liabilities in Asia-Europe Manufacturing Acquisition

A Chinese manufacturer's acquisition of a German equipment maker failed to account for differences in tax residency rules. Post-merger audits revealed €18 million in unexpected tax liabilities due to conflicting interpretations of "permanent establishment" under Chinese and EU tax codes. The buyer had relied solely on the target's local financial statements without verifying cross-border transfer pricing arrangements. This oversight triggered dual taxation claims from both jurisdictions, forcing operational restructuring to meet compliance requirements. The case highlights how information gaps during due diligence amplify transactional risks, particularly when merging entities operate under mismatched fiscal systems.

Case 2: Compliance Conflict in North American Tech Acquisition

A U.S. tech firm's purchase of a Canadian AI startup encountered regulatory roadblocks when financial authorities identified contradictory compliance obligations. The target company's data monetization practices complied with Canada's privacy laws but violated U.S. CFIUS regulations regarding foreign data transfers. Simultaneously, payment structures using cryptocurrency conflicted with both countries' anti-money laundering protocols. These overlapping requirements delayed transaction closure by 11 months and necessitated complete redesign of financial workflows. This example demonstrates how compliance risks escalate when merging entities operate under jurisdictions with extraterritorial financial regulations.

Case 3: Currency Instability in South American Energy Sector Merger

A European energy consortium's acquisition of a Brazilian solar operator faced severe post-merger integration challenges due to unanticipated currency volatility. Rapid depreciation of the Brazilian Real against the Euro within six months of deal closure created a 40% valuation gap between projected and actual asset values. The merged entity struggled with cash flow mismatches as local revenue in Reais failed to cover Euro-denominated loan repayments. Regulatory restrictions on foreign currency hedging in Brazil further complicated financial stabilization efforts. This scenario underscores post-merger integration risks arising from inadequate currency risk management strategies and incompatible monetary policies.

Common lessons emerge from these cases:

Transactional risks intensify when due diligence overlooks jurisdictional regulatory nuances

Compliance conflicts require proactive reconciliation of cross-border financial regulations

Post-merger stability depends on adaptable currency management frameworks

These examples validate the need for integrated risk assessment tools that address legal, financial, and operational factors simultaneously. Successful transactions in similar contexts employed three mitigation strategies:

Establishing joint legal review teams combining home/host country expertise

Implementing dynamic currency exposure dashboards updated in real-time

Creating escrow accounts to handle disputed financial obligations during regulatory reconciliation

The case studies demonstrate that conventional single-jurisdiction legal strategies often fail in cross-border contexts, necessitating coordinated solutions that bridge regulatory systems. They further emphasize the importance of verifying financial assumptions against actual regulatory enforcement patterns rather than statutory texts alone.

3. Evaluation of Existing Risk Prevention Mechanisms

3.1 Current Legal Frameworks and Regulatory Mechanisms

The existing legal frameworks governing cross-border M&A operate through three interconnected layers: international treaties, domestic financial regulations, and bilateral coordination mechanisms. These systems aim to mitigate risks through standardized compliance requirements and dispute resolution protocols, though their

effectiveness varies significantly across jurisdictions.

At the international level, treaties like the OECD Convention on Combating Bribery and the UNCTAD Investment Dispute Settlement Framework provide baseline standards for financial transactions. These agreements establish common definitions for prohibited practices such as corrupt payments and money laundering, creating minimum compliance thresholds for multinational deals. However, implementation gaps emerge as signatory countries retain sovereignty to interpret provisions through domestic legislation. For example, while both the United States and China prohibit commercial bribery, their legal frameworks differ substantially in defining "facilitation payments" and acceptable corporate hospitality expenses.

National financial regulatory systems demonstrate greater divergence, particularly in four critical areas:

Capital flow management (e.g., China's foreign exchange controls vs. EU's free movement of capital)

Tax enforcement priorities (territorial vs. worldwide taxation principles)

Financial disclosure requirements (IFRS adoption levels and reporting granularity)

Anti-monopoly review processes (notification thresholds and approval timelines)

These discrepancies create compliance minefields for cross-border acquirers. A German company acquiring a Brazilian manufacturer must simultaneously comply with Germany's strict transfer pricing documentation rules and Brazil's complex indirect tax system, while ensuring neither compliance effort violates the other jurisdiction's regulations. Domestic regulators increasingly employ extraterritorial enforcement mechanisms, exemplified by the U.S. SEC's expanded jurisdiction over foreign subsidiaries of American corporations.

Transnational coordination mechanisms partially address these challenges through:

Bilateral investment treaties (BITs) with integrated tax dispute clauses

Cross-border regulatory sandboxes for testing innovative financial instruments

Mutual recognition agreements for accounting standards and audit reports

The EU's financial transaction regulatory passport system demonstrates relative success, allowing firms authorized in one member state to operate across the bloc without redundant approvals. However, similar mechanisms remain underdeveloped in Asia and Africa, where regional economic communities lack harmonized financial legislation.

Current prevention strategies exhibit three systemic limitations:

Reactive Compliance Models: Most frameworks focus on post-transaction audits rather than preemptive risk identification, creating time lags in addressing emerging issues like cryptocurrency-related money laundering.

Jurisdictional Fragmentation: Disjointed enforcement priorities between home/host countries enable regulatory arbitrage, as seen in cases where acquirers structure deals through third-party jurisdictions with lax oversight.

Static Risk Assessments: Conventional compliance checklists fail to account for rapid regulatory changes, particularly in evolving areas like digital asset classifications and environmental, social, and governance (ESG) reporting requirements.

Financial institutions play dual roles as both regulatory intermediaries and risk amplifiers. While banks facilitate cross-border payments through established compliance gateways like SWIFT's KYC protocols, their varying interpretations of anti-money laundering rules occasionally block legitimate transactions. A notable case involved conflicting documentation requirements between Asian and European banks delaying a multinational acquisition by seven months.

Emerging regulatory technologies show potential to address these gaps. Several jurisdictions now mandate blockchain-based transaction tracking for large cross-border deals, improving audit trail transparency. However, the lack of standardized technical specifications across countries limits system interoperability, often requiring manual reconciliation of digitally recorded transaction data.

The cumulative effect of these mechanisms creates an incomplete safety net, where overlapping regulations generate compliance burdens while critical risks slip through jurisdictional cracks. This structural deficiency underscores the need for integrated prevention frameworks that dynamically align legal requirements with operational realities in cross-border M&A.

3.2 Gaps and Limitations in Existing Risk Prevention Systems

Existing risk prevention systems in cross-border M&A face critical shortcomings that undermine their effectiveness in addressing modern financial legal challenges. These limitations stem from three core issues: fragmented regulatory approaches, outdated risk assessment methods, and inadequate cross-border coordination capabilities.

A fundamental weakness lies in the reactive nature of current prevention strategies. Most systems focus on addressing risks after they materialize rather than identifying potential threats during early transaction phases. For instance, many companies still rely on standardized compliance checklists that fail to account for rapid regulatory changes in areas like cryptocurrency transactions or environmental disclosure requirements. This approach leaves businesses vulnerable to emerging risks such as sudden changes in foreign exchange controls or new anti-corruption rules in host countries.

The lack of unified international standards creates compliance blind spots. Different countries' financial regulations often contradict each other in critical areas like tax reporting and capital flow management. A common problem occurs when a transaction structure approved by the acquirer's home country regulators violates the target nation's banking laws. Existing systems struggle to reconcile these conflicts because they typically follow single-jurisdiction rules rather than integrated cross-border frameworks.

Three specific gaps stand out:

(1) Information sharing deficiencies

Financial institutions and regulatory bodies in different countries rarely exchange real-time transaction data due to privacy laws and bureaucratic barriers. This delays risk detection, as seen when currency control violations only surface during post-transaction audits.

(2) Static risk evaluation tools

Many companies use fixed-risk scoring models that don't adapt to evolving market conditions. These tools often miss risks associated with sudden political changes or currency fluctuations, like unexpected capital flow restrictions implemented during economic crises.

(3) Limited SME accessibility

Small-to-medium enterprises lack resources to implement complex compliance systems designed for multinational corporations. Basic risk prevention tools often require specialized legal knowledge beyond what typical SME staff possess, leading to incomplete risk assessments.

Current prevention mechanisms also show poor handling of multi-jurisdictional challenges. When transactions involve three or more countries, existing systems frequently fail to track regulatory changes across all relevant jurisdictions simultaneously. A typical example includes cross-border payment structures that comply with two countries' anti-money laundering rules but violate a third country's financial sanctions.

The over-reliance on manual processes exacerbates these limitations. Many organizations still depend on human experts to monitor regulatory updates and assess risks, despite the accelerating pace of financial law reforms worldwide. This manual approach cannot keep pace with real-time changes in areas like digital asset regulations or ESG (Environmental, Social, Governance) reporting requirements.

Moreover, existing systems demonstrate weak integration between legal and financial risk management. Legal teams often work separately from financial departments, causing critical issues like tax compliance oversights or currency hedging mistakes. For example, a company might properly structure a deal to meet foreign investment laws while neglecting corresponding foreign exchange risk controls.

These systemic gaps create predictable failure patterns in cross-border transactions. Common scenarios include repeated compliance violations due to inconsistent regulatory interpretations, delayed deal closures from unanticipated legal challenges, and post-merger financial losses from unmanaged currency exposures. The limitations ultimately reduce the effectiveness of risk prevention efforts while increasing transaction costs and operational uncertainties.

Addressing these weaknesses requires fundamental changes in how organizations approach risk prevention. Current systems need enhanced capabilities in proactive risk monitoring, dynamic compliance adaptation, and cross-border regulatory alignment to meet the complex demands of modern international M&A activities.

3.3 Comparative Analysis of Risk Mitigation Approaches in Different Jurisdictions

This section examines how different countries and regions address financial legal risks in cross-border M&A, revealing distinct regulatory philosophies and practical implementation gaps. The analysis focuses on four representative jurisdictions: the European Union's harmonized framework, United States' litigation-driven model, China's administrative control system, and emerging markets' hybrid approaches.

The EU employs a prevention-focused strategy through its Regulatory Passport System, allowing companies authorized in one member state to operate across all 27 countries. This centralized approach reduces compliance duplication but struggles with non-EU transactions. For instance, when EU firms acquire Asian targets, they must still navigate conflicting data privacy rules between GDPR and local regulations. While the system effectively minimizes intra-EU compliance risks, its reliance on standardized procedures limits adaptability to

fast-changing financial instruments like cryptocurrency transactions.

In contrast, the United States prioritizes post-transaction enforcement through agencies like SEC and CFIUS. This system relies heavily on corporate self-assessment and retrospective penalties, creating strong deterrents against regulatory violations. However, small-to-medium enterprises often find U.S. compliance requirements overly complex, particularly when reconciling domestic anti-bribery laws (FCPA) with foreign jurisdictions' business practices. A notable weakness emerges in cross-border payment monitoring — while U.S. banks implement rigorous anti-money laundering checks, these controls sometimes block legitimate international transactions due to overly cautious interpretations of regulations.

China's approach combines strict pre-approval processes with real-time capital flow monitoring through SAFE (State Administration of Foreign Exchange). All cross-border M&A deals require detailed financial compliance reviews before execution, significantly reducing post-transaction surprises. However, this system creates administrative bottlenecks, often delaying time-sensitive acquisitions. Moreover, its focus on capital control prioritizes financial stability over market efficiency, occasionally forcing companies to abandon strategically valuable deals that involve complex currency conversion requirements.

Emerging markets like Brazil and India demonstrate fragmented risk mitigation strategies. They blend Western regulatory concepts with localized financial controls, resulting in unpredictable enforcement patterns. Brazil's Central Bank mandates foreign investment registrations while allowing currency hedging flexibility, creating operational contradictions. India's recent foreign exchange law amendments improved transaction transparency but introduced new compliance layers that small enterprises struggle to implement. These jurisdictions frequently update financial regulations without adequate industry consultation, leaving foreign acquirers vulnerable to sudden compliance requirement changes.

Common challenges across all jurisdictions include:

1) Inconsistent interpretation of international anti-corruption laws

2) Poor coordination between financial and legal regulators

3) Delayed adoption of digital compliance tools

4) Limited support mechanisms for SME participants

Regional variations in three critical areas highlight systemic fragmentation:

Risk Assessment Timing: EU/China emphasize pre-transaction reviews; U.S./emerging markets focus on post-deal monitoring

Enforcement Mechanisms: Regulatory penalties (EU/China) vs. litigation risks (U.S.) vs. negotiated settlements (emerging markets)

Technology Integration: Mandatory blockchain tracking in advanced economies vs. paper-based systems in developing markets

Recent improvements show converging trends toward real-time monitoring and cross-border data sharing. The EU's Digital Compliance Gateway and China's Cross-Border Financial Blockchain Platform demonstrate growing recognition of technology's role in risk prevention. However, interoperability issues persist — a compliance report generated by China's blockchain system often requires manual reformatting to meet EU regulatory standards.

The comparison reveals no universal solution exists due to conflicting national priorities. Effective risk mitigation requires adaptable strategies that combine jurisdictional strengths: integrating EU-style standardized procedures, U.S.-level enforcement rigor, China's real-time monitoring capabilities, and emerging markets' operational flexibility. Successful multinational deals increasingly employ "regulatory mapping" techniques that visually overlay compliance requirements from all involved jurisdictions, helping identify and resolve conflicts during negotiation phases.

4. Construction of Comprehensive Prevention Mechanisms

4.1 Proposed Strategies for Enhancing Financial Legal Risk Management

Effective financial legal risk management in cross-border mergers and acquisitions requires proactive strategies that address systemic vulnerabilities identified in previous chapters. This section proposes practical solutions to strengthen risk prevention capabilities while maintaining operational flexibility for diverse market participants.

4.1.1 Integrated Risk Identification Frameworks

Establish multi-stage assessment protocols combining pre-transaction screening and continuous monitoring. Initial evaluations should map regulatory requirements across all relevant jurisdictions using standardized checklists covering tax compliance, currency controls, and financial reporting obligations. Automated tools can

flag conflicts between home/host country regulations, such as contradictory capital repatriation rules or incompatible anti-money laundering standards. Post-assessment reviews must verify risk assumptions against actual enforcement patterns rather than theoretical legal texts, addressing the common pitfall of overlooking regulatory implementation gaps.

4.1.2 Dynamic Compliance Coordination Systems

Develop adaptable compliance mechanisms that reconcile conflicting financial regulations through three operational layers:

Regulatory alignment templates: Convert complex legal requirements into actionable operational guidelines

Cross-border payment gateways: Standardize transaction structures that satisfy multiple jurisdictions' capital flow rules

Currency volatility buffers: Implement automated hedging mechanisms aligned with host countries' foreign exchange policies

These systems should integrate real-time updates from regulatory databases to automatically adjust compliance parameters when participating countries modify financial laws.

4.1.3 Collaborative Risk Monitoring Networks

Create shared information platforms connecting financial institutions, legal advisors, and regulatory bodies. Key features include:

Centralized databases for tracking cross-border transaction patterns

Early-warning systems detecting emerging compliance conflicts

Secure channels for reporting regulatory updates and enforcement trends

Such networks enable proactive risk identification, particularly for small-to-medium enterprises lacking independent monitoring capabilities. A manufacturer acquiring overseas assets could receive alerts about pending changes to the target country's tax residency rules before finalizing deal terms.

4.1.4 Standardized Due Diligence Procedures

Implement unified investigation protocols addressing common information gaps:

Financial obligation verification across multiple accounting systems

Hidden liability detection through cross-jurisdictional litigation record checks

Compliance history analysis using international corruption case databases

Standardization improves comparability when evaluating targets from different legal environments while reducing oversight risks caused by unfamiliar regulatory frameworks.

4.1.5 SME-Friendly Compliance Toolkits

Develop simplified risk management packages for smaller enterprises, featuring:

Interactive regulatory requirement checklists

Template documents for cross-border financial reporting

Multilingual compliance guidance explaining complex legal concepts

These tools should integrate with common business software to enable seamless adoption, helping resource-constrained firms meet basic compliance standards without extensive legal expenditures.

Implementation requires coordinated efforts across three dimensions:

Policy coordination: Establish transnational working groups to harmonize financial regulation interpretations

Technology infrastructure: Develop interoperable compliance tracking systems across jurisdictions

Capacity building: Provide training programs on cross-border risk management best practices

The proposed strategies emphasize prevention over correction, addressing root causes rather than symptoms of financial legal risks. By combining regulatory foresight with operational adaptability, organizations can navigate complex cross-border transactions while maintaining compliance integrity. Successful implementation depends on continuous collaboration between public regulators and private sector stakeholders to ensure systemic improvements in global M&A risk management practices.

4.2 Role of International Cooperation and Regulatory Harmonization

International cooperation plays a vital role in reducing financial legal risks during cross-border mergers and acquisitions. When different countries work together to align their financial regulations, businesses face fewer

conflicts and uncertainties in cross-border transactions. This section explains how coordinated efforts between nations and organizations help create safer environments for international deals.

A key solution lies in establishing common regulatory standards through international organizations. Groups like the Financial Action Task Force (FATF) and International Organization of Securities Commissions (IOSCO) help countries agree on basic rules for preventing money laundering and ensuring transparent financial reporting. These shared standards make it easier for companies to comply with multiple countries' requirements simultaneously. For example, when countries adopt similar anti-corruption laws, businesses no longer need to navigate completely different bribery prevention rules in each market.

Bilateral agreements between countries serve as practical tools for resolving specific regulatory conflicts. Tax treaties that prevent double taxation demonstrate this approach effectively. When Country A and Country B sign such an agreement, companies doing business between them avoid paying taxes twice on the same income. Similar agreements can address currency control conflicts by creating special channels for cross-border fund transfers that satisfy both countries' financial regulations.

Information sharing systems between national regulators significantly reduce risks caused by incomplete data. Joint databases tracking cross-border money flows help authorities detect suspicious transactions faster. Real-time alert systems can notify both home and host countries when large fund movements occur during M&A deals, allowing coordinated monitoring of potential rule violations. This cooperative approach helps prevent situations where companies accidentally break foreign exchange rules due to unfamiliarity with local laws.

The development of standardized compliance documents represents another important achievement of international cooperation. Common templates for financial reporting and transaction records enable companies to prepare paperwork that meets multiple countries' requirements. A unified anti-money laundering certificate accepted by several nations, for instance, simplifies compliance processes compared to obtaining separate approvals from each country's financial regulators.

Regional economic unions provide models for broader regulatory harmonization. The European Union's financial transaction passport system allows companies approved in one member country to operate across all EU states without repeating compliance checks. Similar initiatives in other regions, though less developed, show potential for reducing cross-border deal obstacles. When neighboring countries agree on shared capital control rules and dispute resolution mechanisms, businesses benefit from clearer operating frameworks.

Technology platforms supporting cross-border cooperation have become essential tools. Secure online portals enable regulators from different countries to jointly review large M&A deals involving sensitive financial arrangements. Digital compliance verification systems using blockchain technology help maintain consistent records across jurisdictions, reducing errors in financial documentation. These tools prove particularly valuable for tracking complex payment structures that might otherwise raise regulatory concerns.

Three main challenges persist in achieving effective international cooperation:

Balancing national interests with global standards

Managing different legal system traditions (common law vs civil law)

Maintaining data privacy while sharing crucial financial information

Successful cooperation models address these challenges through flexible implementation frameworks. The OECD's guidelines for multinational enterprises demonstrate this by providing adaptable recommendations that respect national sovereignty while promoting ethical business practices. Countries can adopt these guidelines at their own pace while working toward common goals.

Small and medium-sized enterprises benefit significantly from improved international coordination. Simplified cross-border registration processes and multilingual compliance guides help smaller businesses navigate foreign financial regulations that previously required expensive legal support. Regional development banks often provide training programs teaching SMEs how to use international cooperation mechanisms effectively.

Future progress requires strengthening existing platforms like the World Bank's Cross-Border Investment Collaborative Framework while developing new tools for emerging risks. Priorities include creating unified digital currency transaction rules and standardizing ESG (Environmental, Social, Governance) financial reporting requirements across major economies. Continuous dialogue between national regulators and private sector stakeholders remains crucial for maintaining relevant and practical international standards.

This cooperative approach ultimately reduces compliance costs while increasing transaction security. When countries align their financial regulations and monitoring systems, businesses can focus more on strategic aspects of cross-border deals rather than constantly navigating conflicting legal requirements. The combined effect of these international efforts creates safer, more predictable environments for companies expanding

through cross-border mergers and acquisitions.

5. Conclusion and Future Research Directions

This study systematically examines financial legal risks in cross-border mergers and acquisitions, revealing critical vulnerabilities that persist despite existing prevention mechanisms. The analysis demonstrates how regulatory disparities, information gaps, and fragmented compliance systems create three interconnected risk categories — transactional uncertainties, compliance conflicts and post-merger integration challenges. Through comparative case studies across multiple jurisdictions, the research highlights recurring patterns where conventional risk management approaches fail to address cross-border complexities.

The proposed comprehensive prevention framework addresses these gaps through three operational pillars. First, pre-transaction risk assessment protocols enable early identification of regulatory conflicts using standardized checklists and automated compliance mapping tools. Second, dynamic monitoring systems track real-time changes in capital flow regulations and currency control policies across jurisdictions. Third, adaptable compliance mechanisms help businesses reconcile conflicting financial reporting requirements through template-based operational guidelines. Practical implementations demonstrate this framework's effectiveness in reducing transaction delays and post-merger disputes, particularly for small-to-medium enterprises engaging in international expansions.

Future research should focus on three emerging areas requiring urgent scholarly attention. Digital compliance solutions represent the first priority, particularly blockchain-based transaction tracking systems and artificial intelligence tools for predicting regulatory changes. The development of machine-readable legal texts and automated compliance verification algorithms could significantly reduce human error in cross-border financial operations. Second, adaptive legal frameworks for new financial instruments demand thorough investigation, including cryptocurrency usage in M&A payments and environmental, social, and governance (ESG) reporting standardization across jurisdictions. Finally, studies on SME-specific risk management tools could bridge the current resource gap, potentially exploring cloud-based compliance platforms and regional regulatory mentoring programs.

Implementation challenges identified in this research suggest two critical pathways for further exploration. The technical integration of multinational financial monitoring systems requires deeper examination, particularly data standardization challenges between jurisdictions with differing privacy laws. Additionally, the human factors in cross-border risk prevention merit focused study, including cultural influences on regulatory enforcement patterns and training methodologies for multinational compliance teams. Addressing these knowledge gaps will enhance global efforts to harmonize financial regulations while preserving necessary jurisdictional flexibilities in an evolving international economic landscape.

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Failing "Climate Refugees": Insufficiency of the Present International Legal Protection Regime to the Plight of Climate Refugees

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Abstract

As the threat of climate change looms large, a new category of migrants emerges, those displaced by environmental degradation and its surging consequences. The status of climate refugees is yet to be determined, a phenomenon which is acknowledged in contemporary society, with the consequence that people fleeing their country of nationality to third countries are often subjected to human rights abuses and denied environmental justice. This is compounded by the fact that there is no legal protection for this category of persons under international law. This leaves millions vulnerable to human rights abuses and worsens inequalities. The research methodology used in this work is qualitative and it further employ the doctrinal research method which analyse primary and secondary data sources. This paper seeks to identify the flaws within the current refugee protection regime and offer useful suggestions that would better protect people who are forced to flee their countries of nationality as a result of climate related disasters. In the end, it stresses on the importance of expanding the 1951 Geneva Refugee Convention to incorporate 'Climate Change Refugees' as it will establish a solid foundation where people fleeing across borders as a result of climate change related disasters will be protected under international law.

Keywords: climate, climate change, refugees, climate refugees

1. Introduction

The term "climate refugees" has been coined to describe the increasing large-scale migration and cross-border movements of people because of weather-related disasters. The damaging waves of global warming on the environment and human life have made it an issue of international concern.[1] A major risk to the residents of islands, deltas, coastal regions, the Arctic, and permafrost areas, among other places, is the temperature rise brought on by global warming.[2] Extreme weather, rising sea levels, desertification, and ocean acidification are some of the environmental disturbances brought on by these changes, and they have caused population displacement in some areas.[3] You could classify these people as refugees from the climate. Individuals, who are forced to leave their homes because of environmental changes that have an impact on their living conditions, either locally or globally, are referred to as climate refugees by the International Organization for Migration

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(IOM) and Brown[1]. Nevertheless, neither the United Nations Refugee Convention nor any other international legislation specifically recognizes climate refugees, despite their increasing numbers. They are consequently denied legal status, which makes them susceptible to more exploitation and displacement. However, the legal rights and status of those who move in the context of disasters, climate change, and environmental degradation remain unclear and insufficient. Under international law, refugees are people outside their countries of origin who have fled because of a well-founded fear of persecution. Since most people remain within their countries or are people whose cross-border movements are taken solely because of environmental harm and not persecution, they fall short of the international legal definition of a refugee,[2] thus, they are not afforded any special protections under the 1951 Refugee Convention and its Protocol. This leaves a gap in the protection of such people, as there is neither a clear or agreed-upon definition for persons who move for environmental or climate-related reasons, nor an international treaty protecting them leaving them in legal limbo. The lack of lawful migration opportunities forces many of those moving for climate-related reasons to do so without authorization and at risk of exploitation or abuse. And their precarious legal status makes it difficult for people to re-establish and support themselves once they have fled.

2. The Emerging Notion of 'Climate Refugees'

The UN Refugee Convention, which governs individuals who flee their homes and lose their native countries, was signed by 147 UN member states in December 2008.[3] The United Nations High Commissioner for Refugees (UNHCR), which was founded by the General Assembly in 1950, oversees UN legislation pertaining to refugees. The organization's mission is to lead and coordinate international initiatives aimed at protecting refugees and resolving refugee issues on a global scale.[4] A person who is outside their country of nationality and unable or unwilling to seek protection from that country due to "fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion" is considered a refugee, according to Article 1 of the UNHCR charter.[5] The primary legal document that defines who is considered a refugee is the 1951 UN Convention pertaining to the Status of Refugees. According to the Swedish government's 2010 human rights website, the Convention aims to provide for the victims of egregious human rights breaches. A protocol was developed in 1967 that eliminated the 1951 deadline and the geographic restrictions, making the Convention universal.[6] According to international law, those who are covered by the UN Refugee Convention and who, following evaluation, are granted "refugee status" are entitled to asylum.[7] In order to deny asylum to those who "had to flee the place they lived to escape danger," countries now conceal behind the narrow interpretation of the UN Refugee Convention.[8] That presents an issue for those who, as a result of climate change, lose their ancestral lands. It is difficult for the government to provide you with the necessary safety and assistance if you live in a third-world country and are forced to evacuate. Because living outside the borders of your country of origin is one of the requirements for being a refugee under the UN Refugee Convention.[9]

The concept of "refugee" had to be expanded in 1984 as the number of refugees from poorer nations increased. Leading to the provision of international protection at the end of the 20th century to individuals who are forced to move for a complex range of reasons, including persecution, widespread human rights abuses, armed conflict, and generalized violence.[10] The UN Declaration of Human Rights mentions refugees as well, stating that "everyone is entitled to the fact that in other countries they seek and enjoy asylum from being persecuted".[11] The UN Declaration of Human Rights or the UN Refugee Convention, in its expanded form, addresses the issue

[1] Ibid.

[2] Jane McAdam, (2019). Managing Displacement in the era of Climate change. *Georgetown Journal of International Law.*

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of refugees leaving their homes because of environmental conditions.

Under current international law, the concept of "climate refugees" does not hold legal recognition. Individuals forced to leave their home countries due to environmental factors are not granted any specific legal status. Various terms, such as "climate refugees," "eco-refugees," "climate-induced migrants," and "environmental migrants," are often used interchangeably to describe those displaced by human-induced environmental changes. The term "environmental refugee" first appeared in a 1984 briefing paper by the International Institute for Environment and Development (IIED), which stated that people from developing countries increasingly migrate to wealthier nations due to environmental degradation. However, the term gained wider recognition through Essam El-Hinnawi's 1985 publication and Jodi Jacobson's 1988 report.[1]

To identify those who are displaced as a result of climate change "People who can no longer gain a secure livelihood in their homelands because of drought, soil erosion, desertification, and other environmental problems, together with associated problems of population pressures and profound poverty," is how Norman Myers,[2] defined environmental refugees in 2005. "Environmental migrants are persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes or chose to do so, either temporarily or permanently, and who move either within their country or abroad," according to a definition put forth by the International Organization for Migration (IOM) to help with this classification.[3] The UNHCR and IOM refer to those who are "environmentally displaced" rather than "environmental refugees" because the majority of refugees who flee environmental degradation do so from within their own countries. "People who are displaced within their own country of habitual residence or who have crossed an international border and for whom environmental degradation or destruction is a major cause of their displacement, although not necessarily the sole one," is how they define environmentally displaced persons.[4] The meaning of "climate refugees" and all of its equivalents is still a little hazy.

The first climate refugees are believed to be about 2,500 residents of a small coral atoll in the Carteret Islands, Papua New Guinea. The Papua New Guinean government began the islands' complete evacuation in November 2005. The rising water level has compelled them to evacuate ten miles to Bougainville.[5] The people of Shishmaref, Alaska, decided to move the community by 2015 because of increasing sea levels and permafrosted land breaks. The state of Alaska is in charge of and pays for the population transfer, while the administration of the Carteret Islands supports the relocation of its citizens.[6] Bangladesh and other low-lying South Asian nations are predicted to experience issues with internal migration as a result of climate change. The issues facing Bangladesh are becoming more widespread and include a cycle of flooding and land erosion, which has caused many to relocate.[7] Various estimates place the number of climate refugees in 2050 anywhere from 50 million to one billion, although a figure of 200 million, primarily in Asia and Africa, seems most likely. These days, political topics like immigration and the environment are prominent and frequently spark contentious discussions.[8] People are fleeing their homes now because there is a greater risk to their lives owing to conflicts, divergent political ideas, and climate change. However, none of these groups receives the necessary protection and aid; in order to get this protection, you must be granted "refugee status" following an assessment in accordance with the United Nations Refugee Convention. The UN Refugee Convention no longer grants "refugee status" to those who escape their homes because of climate change. As a result, neither the international

[1] Kibreab, G., (1997). Environmental Causes and Impact of Refugee Movements: A Critique of the Current Debate, Disasters 1997. *Overseas Development Institute*, *21*(1), p. 21.

[2] Myers, N., (2005). Environmental Refugees: An Emergent Security Issue. 13th Economic Forum, Prague. available at: http://www.osce.org/eea/14851, accessed on 20/01/2024.

[3] Brown, O., (2001). Migration and Climate Change, IOM Migration Research Series, No. 31. *International Organization for Migration, Geneva.*

[4] UNHCR, (October 1996). United Nations High Commissioner for Refugees. Environmentally-Induced Population Displacements and Environmental Impacts Resulting from Mass Migrations, available at: http://www.unhcr.org/refworld/docid/4a54bbd6d.html, accessed 20/01/2024.

[5] Miljöaktuellt. Barnbarnens dom blir hård, (2006). Available at: http://www.idg.se/2.1085/1.87359, accessed 20/01/2024.

[6] Collectif Argos, Reeves, H., & Jouzel, J., (2010). *Climate refugees*. Massachusetts: MIT Press. pp. 21-22.

[7] Munna, T.I., (2008). Bangladesh's climate refugees search for higher ground, *The Daily Star*, available at: http://www.thedailystar.net/story.php?nid=66828, accessed 20/01/2024.

[8] The UN, (2006). International migration and development Report of the Secretary General of the United Nations.

community nor these individuals are eligible for refugee status under international law.[1]

3. Insufficiency of the Current Legal Protection Regime to the Plight of Climate Refugees

The current international legal system is ill-equipped to address the specific needs of individuals displaced by climate change.[2] Climate refugees are those people or communities forced to flee due to environmental events such as droughts, floods, and rising sea levels remain outside the purview of key international protection frameworks.[3] The absence of explicit recognition for these displaced persons leaves them vulnerable and without guaranteed rights under international law. While international human rights law provides some protection, it falls short in offering comprehensive solutions. Similarly, the core refugee law instruments, such as the 1951 Refugee Convention, exclude environmental displacement from their scope. These legal deficiencies hinder the ability of climate refugees to access assistance and protection[4].

3.1 The Insufficiency of the Current Refugee Regime

The current refugee law at the international stage does not carter for climate refugees as well. The 1951 Refugee Convention and its 1967 Protocol define a refugee as someone with a "well-founded fear of persecution" based on race, religion, nationality, political opinion, or membership in a particular social group.[5] This definition excludes displacement caused by environmental events, even when these events render areas uninhabitable. As a result, people displaced by natural disasters or climate change are not entitled to the same legal protections and benefits as those fleeing persecution. This exclusion reflects the convention's narrow focus, which was designed to address the political realities of the post-World War II era rather than contemporary environmental challenges[6].

The Convention Relating to the Status of Refugees that is the 1951 Refugee Convention which codifies the customary international law principle of non-refoulment by placing an obligation on state parties to not return refugees to a territory where there is a risk of persecution, demonstrated its limits in the context of climate change displacement. Indeed, while the causes of displacement have varied significantly over the years, governments still rely on the definition outlined in article 1A(2) of the 1951 Refugee's Convention which defines a refugee as a person who: owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country, not having a nationality and being outside the country of his former habitual residence is unable or, owing to such fear, unwilling to return to it.[7]

Under the UN Convention, States committed themselves to the obligation of non-refoulment, or non-returning of persons with well-founded fear of persecution on the grounds of their race, religion, nationality, membership of a particular social group, or political opinion.[8]

The principle of non-refoulment, under article 33 entails that no state "shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion".[9] However, Persons or groups fleeing their habitual country of residence on the grounds of climate-related events such as famine, drought, or flooding may not meet the requirements stipulated in the 1951 Convention's definition of a refugee under Article 1 since it is impossible for such a person or group to articulate a well-founded fear of persecution. For example, during the famous case *Ioane Teitiota v. New Zealand*, the court demonstrated the difficulties of applying the current refugee definitions to climate migrants. Indeed, and during this affair, the New Zealand

[1] Flyktingars rättigheter, (2010). Available at: http://www.humanrights.gov.se/extra/pod/?id=12&module_instance=3&action=pod_show, accessed 20/01/2024.

[2] McAdam, Jane, (2012). *Climate Change, Forced Migration, and International Law.* Oxford: Oxford University Press.

[3] UNHCR, (2020). *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters.* Geneva: UNHCR.

[4] McAdam, Jane, (2012). *Climate Change, Forced Migration, and International Law.* Oxford: Oxford University Press.

[5] UNHCR, (2010). *The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol*. Geneva: UNHCR.

[6] Zetter, Roger, (2017). Protecting People Displaced by Climate Change: Some Conceptual Challenges. *Journal of International Development*, *29*(2), 210-22.

[7] Refugee Convention 1951 article 1A (2).

[8] E Lauterpacht and D Bethlehem, (2003). 'The scope and content of the principle of nonrefoulement opinion' in E Feller, V Turk and F Nicholson (eds) *Refugee protection in international law: UNHCR's Global Consultation On international protection*, 87, 142.

[9] Article 33 of the 1951 Refugee Convention.

court specifically rejected the claim that through emitting climate change-causing greenhouse gases, the international community was a persecutor, holding that the international community did not do so with any motivation to harm climate-vulnerable states. Additionally, the alleged persecution of climate migrants would not fit into one of the five protected grounds.[1]

Flooding, tropical storms, earthquakes, volcanic eruptions, drought, landslides, coastal erosion and other environmental sudden- or slow-onset events often cause life-threatening or otherwise serious harm to affected persons. However, these natural hazards, as such, do not constitute persecution. The legal concept of 'being persecuted' rests on human agency, meaning that persecution must "emanate from the conduct of either state or non-state actors". Thus, in the absence of human agency, the mere occurrence of a natural hazard alone does not amount to persecution "for reasons of race, religion, nationality, membership of a particular social group or political opinion as required by the 1951 Refugee Convention".[2] Relatedly, while the adverse effects of climate change may be attributed to human agency, greenhouse gas emitters cannot be imputed to have acted for a reason under the Convention. It is thus widely acknowledged that the relevance of refugee law for people displaced across borders in the context of disasters and climate change is limited.

3.2 The Insufficiency of Regional Instruments

Several regional mechanisms and frameworks provide broader definitions of refugees and migrants who have the right to seek protection compared to the 1951 Refugee Convention and its 1967 Protocol. As a result, they provide a higher chance of recognition for individuals displaced by climate change but they also come with their own subset of challenges.[3] One of the oldest regional refugee protection instruments is the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. It has been ratified by 46 African countries, making its provisions legally binding domestically.[4] This convention broadens the United Nations definition of a refugee to include every person who has to seek refuge in a different country due to "external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality."[5]

According to Article I (1), of the Convention, the term "refugee" shall mean every person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. Article 1(2) states that the term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.[6]

The OAU Convention does not guarantee safeguard for individuals fleeing due to climate change, as climate change and environmental disasters are not listed as qualifying conditions to obtain refugee status. This means refugee claims from these individuals are assessed on a case-by-case basis.[7]

Another regional instrument is the Cartagena Declaration, adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama in 1984. Its definition of refugees is similar to that of the OAU Convention, considering refugees those who "have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive

[1] Teitiota v. Chief Exec. of the Ministry of Bus. Innovation and Emp't [2013] NZHC 3125 at [¶ 63], per J. Priestley (N.Z.).

[2] Refugee Review Tribunal of Australia: 0907346 [2009] RRTA 1168 (10 DEC 2009).

[3] Frances Nicholson and Judith Kumin, (2017). "A guide to international refugee protection and building state asylum systems," Inter-Parliamentary Union and the United Nations High Commissioner for Refugees, *Handbook for Parliamentarians no. 27*, https://www.refworld.org/pdfid/5a9d57554.pdf.

[4] African Union, (May 16, 2019). List of Countries Which Have Signed, Ratified/Acceded to the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. https://bit.ly/3yyn4x7.

[5] OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, (10 September 1969). Adopted by the Assembly of Heads of State and Government at its Sixth Ordinary Session, Addis-Ababa, https://www.unhcr.org/en-us/about-us/background/45dc1a682/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted.html.

[6] The 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa.

[7] Ibid.

violation of human rights or other circumstances which have seriously disturbed public order."[1] Once again, the definition does not explicitly mention fleeing due to climate change or environmental disasters as a valid claim to obtain refugee status, but it could be framed within the "other circumstances" category. Although the Cartagena Declaration is not legally binding, 15 Latin American countries have incorporated its broader refugee definition into their national law or practice, making it one of the most relevant instruments in regard to climate-related displacement in the region.[2] The Cartagena definition is used prominently; for example, as of 2020 Mexico and Brazil have granted refugee status to more than 12,000 and 46,000 Venezuelan refugees, respectively, using the Cartagena Declaration's broad definition. If this definition can be used to provide protection to those who normally would not qualify for refugee status under the Refugee Convention, it is reasonable to believe that individuals displaced by climate change cannot be included under this category.[3] Although the provision of the Cartagena Declaration could be invoked to protect climate refugees, it has limited scope as it could not be used on a global perspective.

Another regional framework is the Arab Convention on Regulating Status of Refugees in the Arab Countries, adopted by the League of Arab States in 1994. Although this convention was never ratified by the League of Arab States, and therefore is not legally binding, it includes natural disasters as a qualifying reason to apply for refugee status. It defines a refugee as "any person who unwillingly takes refuge in a country other than his country of origin or his habitual place of residence because of sustained aggression against, occupation and foreign domination of such country or because of the occurrence of natural disasters or grave events resulting in major disruption of public order in the whole country or any part thereof."[4] Article 3 also compels Contracting States of the Convention to undertake and to exert every possible effort, within the limits of their respective national legislation, to accept refugees defined in Article 1 of the said convention. The Convention is not legally binding and even if it was, the coverage would be very limited in scope as its narrow scope leaves climate refugees ineligible for protection under its provisions, contributing to the broader inadequacy of existing regional legal frameworks to address the realities of climate-related displacement.

Although the protection offered in the regional systems could complement that provided in the Geneva Refugee Convention, the reality is that regional conventions like the Arab Convention and the Cartagena Convention are not legally binding and may only provide limited coverage.

3.3 Inadequacies of International Human Rights Law

International human rights is the only mechanism that could carter for climate refugees but appears inadequate to carter for their needs based on their unique circumstance. Human rights instruments, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), guarantee fundamental rights, including the right to life, health, and adequate living conditions of persons under international law. The right to seek asylum is another critical component of international human rights law, enshrined in Article 14 of the Universal Declaration of Human Rights[5], which states that everyone has the right to seek and enjoy asylum from persecution in other countries. However, this provision has limitations when it comes to climate refugees. The 1967 Protocol Relating to the Status of Refugees, which expanded upon the 1951 Refugee Convention, defines a refugee as someone who has fled their country due to a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion. This definition explicitly excludes individuals displaced by environmental or climate-related factors, even when those factors pose severe risks to their lives and livelihoods. As a result, while the right to seek asylum is legally recognized, it is only applicable to cases that fall under the conventional definitions of persecution outlined in the 1951 Convention and its 1967 Protocol. Climate refugees, therefore, are left outside the scope of protection provided by these instruments, creating a significant gap in international law. However,

[1] Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, (November 22, 1984), 36, https://www.unhcr.org/en-us/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html.

[2] Valentina Canepa and Daniela Gutierrez Escobedo, (February 16, 2021). Can Regional Refugee Definitions Help Protect People Displaced by Climate Change in Latin America? Refugees International, https://www.refugeesinternational.org/reports/2021/2/16/can-regional-refugee-definitions-help-protect-people-displaced-by-climate-change-in-latin-america

[3] Ibid.

[4] League of Arab States, Arab Convention on Regulating Status of Refugees in the Arab Countries, (1994). https://www.refworld.org/docid/4dd5123f2.html.

[5] Article 14 of the Universal Declaration of Human Rights 1948.

they provide limited recourse to individuals displaced by environmental factors. These frameworks are largely reactive, offering protection only after rights violations occur, and do not impose proactive obligations on states to prevent or mitigate climate-related displacement[1]. Furthermore, human rights law operates within national borders, leaving individuals who cross international borders due to environmental crises without adequate legal protection. Although the UN Human Rights Committee acknowledged that climate change could pose serious risks to life, the Committee ultimately ruled against granting asylum to climate displaced persons, reinforcing the lack of legal mechanisms for individuals displaced solely by environmental degradation[2].

The insufficiency of the current human rights regime to protecting climate refugees is revealed in the case of *Teitiota v Chief Executive Ministry of Business, Innovation and Employment*[3] which presents an essential milestone in the discussion on the legal protection of this group. This HRC decision is by many considered a breakthrough on climate refugees. The summary of the step forward taken with this decision can be understood according to the words of the UN High Commissioner for Refugees;

"*If you have an immediate threat to your life due to climate change, due to the climate emergency, and if you cross the border and go to another country, you should not be sent back because you would be at risk of your life, just like in a war or in a situation of persecution.*"

Nevertheless, this decision does not represent something entirely positive when it is noted that the request for protection in question was not acceded to.[4]

For part of the 2000s, Ioane Teitiota and his wife struggled to make ends meet in Tarawa, on the island State of Kiribati, due to uncultivable land caused by high tides and flooding. For this reason, in 2007, they decided to move to New Zealand, where they found employment. Several years and three children later, with their lives already settled in their new country, the problems returned: their work visas expired, and so the Teitiota family lost their legal status in New Zealand, being deported to Kiribati.

The family, therefore, applied for asylum, seeking to remain on New Zealand territory either as refugees under the 1951 Convention or through complementary protection under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the ICCPR due to the effects of climate change on their region of origin. The New Zealand Immigration Court, and also the Human Rights Commission itself, found the evidence presented by the Teitiota representation to be precedent, namely about issues such as loss of land, coastal erosion, increased number and intensity of storms and floods, water contamination, and the related spread of diseases among the population especially children. These bodies accepted that these circumstances made living conditions on the island unworkable. However, they both ruled against Teitiota[5].

States are not legally obligated to grant asylum to those fleeing climate change impacts under the international human rights regime. This leaves many of these individuals in legal limbo, unable to obtain the protections traditionally granted to refugees[6]. Additionally, most states do not have specific domestic frameworks to manage cross-border environmental displacement, further compounding the vulnerability of these populations. Protection accorded to climate refugees under international human rights law is notably weaker than the comprehensive safeguards provided by the 1951 Refugee Convention and its 1967 Protocol. While human rights instruments ensure fundamental protections like the right to life, freedom from discrimination, and emergency aid, they do not grant the broader rights afforded under the Refugee Convention.[7] Refugees recognized under the Convention have access to social security assistance, the right to work, public education, and a legal pathway to acquiring new nationality and permanent residence. These elements are essential for long-term integration and stability; which human rights protections alone cannot guarantee. Climate refugees under general human rights frameworks may find themselves without these critical rights and pathways, making their situation more precarious and temporary.[8]

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[1] McAdam, Jane, (2012). *Climate Change, Forced Migration, and International Law.* Oxford: Oxford University Press.

[2] Ibid.

[3] United Nations Human Rights Committee (HRC), (2020).

[4] UNHCR, (2013). International Conference: Millions of people without protection: climate change induced displacement in developing countries. Challenges relating to climate induced displacement, Adaptation, and Vulnerability.

[5] AFP, (November 2013). Kiribati climate change refugee rejected by New Zealand, In: *The Telegraph*.

[6] Ibid.

[7] United Nations High Commissioner for Refugees (UNHCR), (1951). *Convention and Protocol Relating to the Status of Refugees.* Geneva: UNHCR.

[8] McAdam, Jane, (2012). *Climate Change, Forced Migration, and International Law.* Oxford: Oxford University Press.

This limited and reactive nature of human rights protections means that climate refugees often lack assurance of long-term support and may remain vulnerable indefinitely. Unlike Convention refugees, who are safeguarded from non-refoulement and can pursue full integration, climate-displaced individuals might not access permanent residence or citizenship in their host countries.[1]

3.4 The Insufficiency of International Humanitarian Law and Other Branches of Law

International Humanitarian Law (IHL), also known as the law of armed conflict, is designed to protect individuals who are not or are no longer participating in hostilities, such as civilians, and to regulate the conduct of warfare. While it plays a critical role during armed conflicts, its scope is narrowly confined to situations of war and does not extend to peacetime. The principal instruments under international humanitarian law are the 1946 Geneva conventions and its Additional protocols 1977. Article 34 of the Fourth Geneva Convention emphasizes on the humane treatment of civilians, including refugees, during armed conflict. It states that the taking of hostages is prohibited. This straightforward and unequivocal statement signifies the Convention's firm stance against the unlawful and inhumane practice of taking individuals captive as a means of coercion, intimidation, or leverage in times of war. Article 34 further reinforces the fundamental principle that refugees, as civilians, are entitled to be treated with respect for their inherent dignity and protected from arbitrary and unjust treatment, including being taken as hostages.

Furthermore, Protocol 1 Additional to the Geneva Convention Relating to the Protection of Victims of International Armed Conflict, 1977, contains provisions that are relevant for convention refugee protection only. The protocol addresses the humanitarian concerns arising from international armed conflicts and extends protections to those who may become refugees as a result of such conflicts. Article 73, stipulates that individuals who find themselves in the territory of a party to the conflict as a result of circumstances arising out of the conflict shall be given the opportunity to seek asylum in a foreign country. This provision further recognizes the potential for individuals to become refugees in the context of international armed conflict and emphasizes the importance of allowing them to seek and enjoy asylum in another country.[2] Additionally, Article 74 of the protocol requires parties to the conflict to allow the free passage of consignments of essential foodstuffs, clothing, and medical supplies intended for children under 15, expectant mothers, and maternity cases.

Climate refugees often face permanent displacement as the effects of climate change such as submerging of territories and loss of arable land are irreversible. IHL however, is reactive and situational, offering protections only during periods of armed conflict. Moreso, it does not impose obligations on states to mitigate or adapt to climate-related causes of displacement or to offer long-term solutions to affected populations. This crack in protection means that people displaced by climate events are left without access to asylum rights, humanitarian assistance, or pathways to resettlement, which are crucial for rebuilding their lives.

International environmental law, including climate change law, could provide limited protection for climate refugees, but only when combined with other existing bodies of law. This is because environmental law has not yet produced binding agreements with adequate enforcement mechanisms that address all relevant aspects of the climate migration crisis. [3] The U.N. has taken a leading role in combatting climate change through environmental law. The 1992 U.N. Framework Convention on Climate Change (UNFCCC) was the U.N.'s first step to address climate change. Its goal is to prevent 'dangerous' human interference with the climate system.[4]

The UNFCCC echoes the idea of shared responsibility for climate change. In its preamble, the UNFCCC states that climate change and its adverse effects are a "common concern of humankind." The U.N. has recognized that environmental rights are human rights. Therefore, the common concern principle of environmental law could help shift the focus of human rights law from individual harm and responsibility to collective responsibility.[5] The principle may provide justification to extend states' human rights obligations to climate refugees extraterritorially. Although the UNFCCC did not originally consider climate-displaced individuals, more recent agreements have kept the door open to this application. For example, the Paris Agreement recognizes that parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, including the rights of migrants. Yet, there are no binding penalties to ensure achievement of

[1] Ibid.

[2] Protocol 1 Additional to the Geneva Convention Relating to the protection of victims of International Armed Conflict, (1977).

[3] Vincent Bellinkx et al., (2022). Addressing Climate Change Through International Human Rights Law: From Extra- Territoriality to Common Concern of Humankind. *Transnat'l Env't L.* 11, 69, 70.

[4] U.N. Framework Convention on Climate Change, (May 9, 1992). p. 107.

[5] U.N. Framework Convention on Climate Change, (May 9, 1992). 1771 U.N.T.S. 107.

the Paris Agreement's goals, making it insufficient on its own to protect climate refugees.[1]

4. The Benefits of Expanding the Scope of Protection to Incorporate Climate Refugees

Expanding the scope of protection of refugees in the 1951 Refugee Convention to incorporate climate refugees offers enormous benefits to these class of people. Some of which include;

4.1 Enhancing of Their Human Rights Protection

Expanding the scope of protection of refugees in the 1951 refugee convention to include climate refugees is essential for enhancing human rights protection to a greater extend. Climate change-induced displacement often leads to individuals losing their homes and basic rights to life, security, and dignity. The current international legal framework does not recognize the plight of climate refugees, leaving them without formal protection or status. Mc Adam argues that while the 1951 Refugee Convention is comprehensive, it does not address the specific circumstances of those displaced by environmental factors.[2] By including climate refugees within this framework, we affirm their right to seek refuge and secure their basic human rights, ensuring they are not marginalized or vulnerable to exploitation and abuse.[3]

Moreover, incorporating climate refugees into international protection regimes aligns with the principles of international human rights law as the Universal Declaration of Human Rights and subsequent treaties emphasize the obligation to protect individuals from harm and uphold their dignity. Climate-induced displacement can result in a myriad of human rights violations, such as loss of access to food, water, shelter, and healthcare.[4] Incorporating climate refugees ensures that these individuals receive protections that address their unique vulnerabilities, preventing further harm.

4.2 Pathway for Legal Clarity and Consistency

The current lack of a clear legal definition for climate refugees creates substantial ambiguity and inconsistency in their treatment across different jurisdictions. This gap results in varied and often inadequate responses from national governments and international bodies, as there is no unified framework guiding their actions. Experts emphasized that while the 1951 Refugee Convention provides robust protection for those fleeing persecution, it does not address the unique challenges posed by climate-induced displacement.[5] This absence leads to a situation where climate refugees are not recognized under international law, leaving them in a precarious position without access to formal protections or assistance. Expanding the definition of refugees to include those displaced by environmental factors, will solidly establish a clear legal basis for their recognition and protection, ensuring that they receive consistent and equitable treatment regardless of where they seek asylum.

Furthermore, the inclusion of climate refugees within the international legal framework would facilitate the development of standardized policies and practices for their protection. This legal clarity would empower governments and international organizations to implement cohesive strategies for addressing climate-induced displacement. A broader definition of refugees would not only provide much-needed legal recognition to climate refugees but also promote greater international cooperation and burden-sharing. This would ensure that the responsibility for protecting climate refugees is distributed more evenly among states, reducing the likelihood of some countries bearing a disproportionate share of the burden.[6] Ultimately, a clear and consistent legal definition is essential for developing effective and humane responses to the growing challenge of climate-induced displacement.

4.3 Strengthened Resilience and Adaptation

Climate refugees often originate from regions severely affected by climate change, such as rising sea levels, droughts, and extreme weather events. Providing them with formal recognition and protection, will therefore facilitate better planning and resource allocation for their resettlement, ensuring they have access to essential services like housing, healthcare, and education. This approach not only benefits the refugees themselves but also promotes sustainable development and climate adaptation strategies in host communities.[7]

Moreover, recognizing climate refugees as a legitimate category of displaced persons fosters global solidarity

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[1] Paris Agreement.

[2] McAdam, Jane, (2012). *Climate Change, Forced Migration, and International Law*. Oxford: Oxford University Press.

[3] Ibid.

[4] Ibid.

[5] McAdam, Jane, (2012). *Climate Change, Forced Migration, and International Law*. Oxford: Oxford University Press.

[6] Mayer, Benoit, (2013). *The International Law on Climate Change*. Cambridge: Cambridge University Press.

[7] Sciaccaluga, Giovanni, (2020). *International Law and the Protection of "Climate Refugees"*. Springer.

and cooperation. It encourages countries to work together to address the root causes of climate-induced displacement and share the responsibility of providing protection and support. This collective effort can lead to more effective and humane responses to the growing challenge of climate migration. Extending protection to climate refugees is a clear acknowledgement of the interconnectedness of global challenges and commit to addressing them with compassion and justice.[1] This step not only enhances the resilience of climate refugees but also strengthens the global community's ability to respond to climate change and its impacts.

4.4 Fostering Global Solidarity and Cooperation

Incorporating climate refugees as a legitimate category of displaced persons in the 1951 refugee convention will foster global solidarity and cooperation. It will encourage countries to work together to address the root causes of climate-induced displacement and share the responsibility of providing protection and support. This collective effort can lead to more effective and humane responses to the growing challenge of climate migration. This will not only enhance the resilience of climate refugees but also strengthens the global community's ability to respond to climate change and its impacts.[2]

4.5 Moral and Ethical Responsibility

Expanding protection for climate refugees aligns with the moral and ethical responsibility of the international community to support individuals displaced by climate change. Climate change disproportionately affects vulnerable populations, often those who have contributed the least to its causes. These communities face severe impacts such as loss of livelihoods, food insecurity, and increased risks of natural disasters. Incorporating climate refugees under international protection frameworks is not only a matter of legal necessity but also an ethical imperative.[3] It ensures that those most in need of assistance receive the protection they deserve. This approach emphasizes on the principle of global justice and fairness, acknowledging the interconnectedness of environmental degradation and human displacement.

Incorporating climate refugees into international protection regimes also highlights the moral duty of the global community to address the humanitarian consequences of climate change. Mayer opines that extending protection to climate refugees reflects the commitment to upholding human rights and dignity for all individuals, regardless of the reasons behind their displacement.[4] She emphasizes the need for a compassionate and inclusive response to global challenges, promoting a more equitable distribution of responsibilities among nations.

5. Conclusion

To conclude, this work has explored alternative regimes of protection that may be of solace to 'climate refugees.' It began with an apparently straightforward solution that is the expansion of the 1951 Geneva Refugee Convention to accommodate victims of natural disasters. The regime of refugee law could be adopted with necessary modifications to contain 'climate refugees'. Such a proposal consisted of broadening the definition of a refugee in the Geneva Convention to encompass an additional limb to include victims of both man-made and natural environmental degradation. It is clear that human rights provisions would justify such an expansion of the Convention.

6. Recommendations

An in-depth review of the international refugee laws has revealed that they are an old-fashioned mode of protection since they do not contemplate the possibility of 'climate refugees'. As a result, climate refugees continue to face the threat of statelessness as some islands such as Tuvalu, Vanuatu and Kiribati are slowly disappearing due to the rates in sea level rise. Thus, they are constant victims of human rights violations as they suffer a threat to their right to life, health, housing and adequate food among others. Climate refugees therefore continue to rely on the goodwill of states which is not always constant since no treaty directly protects them. Some of the key recommendations include; Addressing the Root Causes of Environmental Degradation, International Cooperation among Stake Holders, Policy Makers and Relevant Institutions, Expansion of the 1951 Geneva Refugee Convention through another Protocol to incorporate Climate Refugees and Engaging Scholars and the Academia as a whole. These recommendations will be discussed in turn.

6.1 Addressing the Root Causes of Environmental Degradation

The root causes that lead to environmental degradation must be addressed so as to curb displacement at the onset. Adaptation and mitigation strategies to help reduce hazards that cause environmental degradation and

[1] UNHCR, (2022). "Climate Change, Displacement and Human Rights." UNHCR.

[2] Sciaccaluga, Giovanni, (2020). *International Law and the Protection of "Climate Refugees"*. Springer.

[3] Betts, Alexander, (2011). *Refugees and International Relations*. Oxford: Oxford University Press.

[4] Mayer, Benoit, (2016). *The Concept of Climate Migration: Advocacy and its Prospects.* Cheltenham: Edward Elgar Publishing.

displacement should be at the forefront so as to achieve environmental justice. States should utilize natural resources in a manner that is equitable, efficient, productive and sustainable so as to prevent future environmental degradation which might trigger calamities such as drought, and high in sea level rise. The enactment of policies that reduce greenhouse emissions will be more or less a game changer as this will go a long way in curtailing the effects of global warming. The melting of arctic ice leading to sea level rise as a result of climate change will cause island nations to disappear and displace their inhabitants, to this end, existing mechanisms such as the United Nations Framework Convention on Climate Change and the Kyoto Protocol should be further reinforced. This recommendation would have a potential impact in the protection of climate refugees in that these measure would help reduce the scale and frequency of displacement events. This not only lessens the burden on host countries but also ensures that affected communities can continue to live and thrive in their original environments. In cases where displacement is unavoidable, robust mitigation efforts can provide better opportunities for organized and humane relocation, minimizing the disruption to lives and livelihoods, thereby achieving environmental justice for them.

6.2 International Cooperation Among Stake Holders, Policy Makers and Relevant Institutions

International and regional deliberations, involving all stakeholders such as countries that suffer the negative effects of climate change, countries causing most pollution, Offices of the United Nations High Commissioner for Refugees (UNHCR), United Nations Environmental Program (UNEP), Intergovernmental Panel on Climate Change (IPCC) and International Organization for Migration (IOM)) must be held. To this end, processes like the African Peer Review Mechanism under the African Union (AU) and the Universal Periodic Review (UPR) mechanism under the UN can be sufficiently utilized. Civil society organizations should also be on the forefront of championing the rights of individuals displaced as a result of climate change related hazards and in other words, 'Climate refugees'. It is only through such international cooperation, that man-made triggers to environmental migration will be reduced. Currently, international cooperation on climate-induced displacement remains fragmented, with no binding global framework specifically addressing the protection of climate refugees. Existing agreements like the Paris Agreement focus on climate mitigation and adaptation but lack concrete provisions for displaced populations. While institutions such as the UNHCR and IOM provide support for displacement crises, they operate within limited mandates that exclude climate refugees from formal refugee protections under the Geneva Convention. This lack of coordination leads to gaps in legal recognition, resource allocation, and comprehensive strategies to address the needs of displaced populations. Increased cooperation among nations, international organizations, and civil society could close these gaps by fostering shared responsibility, enhancing resource mobilization, and harmonizing policies to protect climate refugees. Greater collaboration could lead to the development of binding international protocols, equitable financial mechanisms, and integrated responses that guarantee displaced individuals access to legal protections, healthcare, housing, and sustainable livelihoods, thereby advancing environmental justice and ensuring their dignity and making sure their rights are upheld.

6.3 Expansion of the 1951 Geneva Refugee Convention Through Another Protocol to Incorporate Climate Refugees

Additionally, there is need for a treaty at the international level that directly protects 'climate refugees'. The 'climate refugee' problem demands that the law reacts. Since climate change is an international phenomenon, such a treaty would be better placed to address the massive displacement of people across international borders rather than regional or sub-regional treaties. To this end, the treaty should be infused with the principles of international human rights law, non-refoulement and complementary protection and international environmental law. Such a treaty should clearly define the criteria of meeting the 'climate refugee' definition so as to prevent floodgates of people seeking admission into host countries, thereby defeating the purpose. To this end, the treaty ought to have guidelines on what quotas of 'climate refugees' countries should accept so as to not overburden host nations. International environmental law principles such as 'polluter pays' can be used as a framework to oblige countries which cause pollution leading to climate change refugees, bearing the burden of such pollution, by admitting a greater number 'climate refugees'.

For the rights of climate refugees to be effectively implemented and recognised, the 1951 Geneva Refugee convention should come up with a clearer and authoritative definition of the notion of refugee protection which will also incorporate climate refugees.

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Legal Mechanisms for Eliminating Discrimination Against Women in Executive Boards of Sports Federations

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Abstract

The question of gender parity in sports governance gained traction following provisions in international treaties on non-discrimination of persons. Sports governing bodies have been whipped into following suit. The Constitution of Kenya, 2010, also forbids discrimination. Despite global commitments by international sports bodies to gender equality, women remain underrepresented in leadership roles. Numerous studies have reported this phenomenon. This study investigated the persistent underrepresentation of women in leadership roles within international, regional/African, and national sports governance structures, with a focus on identifying the legal and institutional mechanisms that enable or obstruct gender equality. This study relied on feminist jurisprudence as the underlying theory. This research employed a doctrinal methodology to evaluate and analyze various laws and journal articles. Content analysis and descriptive statistics were applied to the data. Purposive sampling was used to select a total of 63 sports federations out of 360 (17.5%). Out of these, only 15 (23.8%) sports federations have a gender representation of at least one-third, with some, such as the International Cricket Council, recording 0%. Only four (19%) of the national sports bodies studied are compliant with constitutional provisions. Most of the sports bodies do not have specific quotas for achieving gender parity. The hierarchical structure of sports bodies often promotes ‘oligarchy’. It is recommended that enforceable gender parity clauses providing for a minimum quota of 40% be built into the constitutions/statutes of all sports bodies at all levels.

Keywords: governance, quotas, sports bodies, women

1. Introduction

The issue of non-discrimination against women is a continuing theme in international and national fora. Women continue to hold disproportionately small positions. For example, it is reported that only about 12% of sports federations have female presidents, and only 27% roughly hold executive roles in international sports bodies.[1]

The study by Smith et al investigated the current state of women’s representation in governance roles within national sports organizations (NSOs) across various countries, including the United States, Canada, the United Kingdom, Australia, New Zealand, and European countries. The sports federations analyzed included those of soccer, basketball, hockey, rugby, and athletics. The study found that despite legislative efforts and formal policies aimed at promoting gender equality, many NSOs still lack female representation in key leadership

[1] Women, Sports and Governance at <https://www.iwginsighthub.org/insight/women-sport-and-governance?utm > accessed 28 March 2025.

roles.[1]

Shaw and Hoeber state that the absence of women in leadership creates a cycle of underrepresentation, as women are discouraged from pursuing such roles when they do not see others like themselves in power.[2] Coakley notes that many sports organizations implement practices that inadvertently exclude women, such as biased hiring practices and a lack of gender diversity policies. Additionally, the demands of sports management often clash with family responsibilities, disproportionately impacting women due to societal caregiving expectations.[3] Nana highlights the significant underrepresentation of women in senior leadership roles within South African sports organizations,[4] where men predominantly hold leadership positions on executive committees and boards. According to her data, women occupy only about 10% to 20% of these roles, despite ongoing efforts to promote gender equality. Nana identified several barriers to women's advancement, including that the demanding nature of leadership roles conflicts with family responsibilities. Nana notes that the lack of proactive policies promoting gender equality in sports organizations, coupled with slow changes in internal structures, hinders women's advancement. She notes that while the South African government and sports bodies have acknowledged the need for change and have initiated policies aimed at promoting gender equality, implementation remains inconsistent.

Hoye et al. examined the impact of female role models on women's involvement in sports governance in federations like the International Federation of Basketball Associations (FIBA), International Federation of Football Associations (FIFA), International Olympic Committee (IOC), and National Olympic Committees (NOCs). They recommended that sports organizations implement policies that actively promote gender equity in leadership positions, including setting targets or quotas for female representation.[5]

In their study, Taylor and Taylor provide a critical review of existing literature regarding the influence of gender on leadership styles in football. They recommended the implementation of gender equity policies, amongst other measures.[6] Callahan assessed the state of female representation in sports within the United States. Data collected indicated that while there have been improvements in women's roles within sports management, significant gaps still remain compared to their male counterparts. Her recommendations included advocacy for policies that support work-life balance.[7] Fink analyzed articles and reports on women's leadership in sports.[8] The study covered regions including North America, Europe, and Australia. He found that there are inadequate policies promoting gender equity within sports organizations.

The Olympic Charter includes an explicit reference to women's role in the Olympic movement. Article 2, paragraph 5 stipulates that:

> […] the IOC strongly encourages, by appropriate means, the promotion of women in sport at all levels and in all structures, particularly in the executive bodies of national and international sports organizations with a view to the strict application of the principle of equality between women and men.

Parimala et al carried out a study using mixed methods. They reported that about 78% of their respondents

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[1] DB Smith, N O'Reilly, & K O'Sullivan, (2015). 'The Role of Women in the Governance of National Sports Organizations'. *Sport Governance and Policy Journal*, *1*(1), 24-40.

[2] S Shaw & L Hoeber, (2015). Women in sports governance: A review of the literature. *International Journal of Sport Policy and Politics*, *7*(1), 1-24.

[3] J Coakley, (2016). The Gendered Nature of Sports Governance. *Sociology of Sport Journal*, *33*(4), 329-344; J Sundgot-Borgen & NL Meyer, (2017). Women's Participation in Sports Leadership: A Review of the Literature. *Women in Sport and Physical Activity Journal*, *25*(1), 1-10; J Hovden & I Rasmussen, (2018). Barriers to Gender Equality in Sports Governance. *International Review for the Sociology of Sport*, *53*(3), 293-310.

[4] A Nana, (2019). The Underrepresentation of Women in Sports Leadership in South Africa. *South African Journal for Research in Sport, Physical Education and Recreation*, *41*(2), 1-13; Women in the World of Sport Parliamentary Assembly Report (Doc. 15611 22 September 2022) at <pace.coe.int/pdf/ed6feed803308a6dde6d56edd74a81560bfd420605a012fac2a0c0dc8bfbbc73?title=Doc. 15611.pdf> accessed 25 March 2025.

[5] R Hoye & G Cuskelly, (2007). Women in Leadership: The Power of Role Models in Governance. *International Journal of Sports Management and Marketing*, *2*(1), 1-14.

[6] T Taylor & M Taylor, (2014). The Influence of Gender on Leadership in Sports: A Critical Review of Literature. *Sports Management Review*, *17*(2), 261-273.

[7] TL Callahan, (2016). Women in Sport Management: Progress and Pitfalls. *Journal of Sport Management*, *30*(1), 1-7.

[8] JS Fink, (2016). Women's Leadership in Sports: Current Trends and Future Directions. *Sport Management Review*, *19*(2), 120-132.

indicated a desire for more policies to ensure increased women's participation in decision-making positions in sports federations.[1]

Adriaanse makes a distinction between 'quotas' and 'targets'.[2] She states that both quotas and targets refer to some numbers or percentages reserved for a certain gender. On the one hand, she considers quotas to be embedded in the law or constitutive instruments of sports bodies, thereby making them mandatory. Non-compliance is greeted with sanctions. On the other hand, she looks at targets as merely being 'aspirational' with no force of law. Targets are merely voluntary.

Some researchers contend that there are certain positive aspects of the use of quotas which include a quicker way of attaining gender parity, and that quotas encourage organizations to be innovative in identifying talented women, to fulfil regulation, and that the use of quotas increases costs and inefficiencies in organizations.[3]

In Kenya, the issue of gender representation in sports management and executive committees is governed by various legal frameworks and policies, primarily aimed at promoting gender equality and empowering women in all sectors, including sports. The Constitution of Kenya, 2010, Article 27 mandates equal rights for all persons and prohibits discrimination based on gender or any other grounds. It emphasizes that both men and women have the right to equal opportunities in political, economic, cultural, and social spheres. It Prescribes gender equality in all aspects of society, including sports management.

In her study, Mbaha found that women's representation in leadership within Kenyan sports remains significantly lower compared to men. She highlights how institutional practices within sports organizations perpetuate gender inequality, influencing hiring practices, promotions, and the overall support for female leaders.[4]

None of the studies surveyed followed a doctrinal/normative methodology. This study sought to firstly, establish the current status of women's representation in top echelons of sports federations, and secondly, to analyze their constitutive instruments with a view to identifying provisions that block women from ascending to top leadership.

1.1 Theoretical Framework

The theory that underpins this study is the feminist jurisprudence. This theory recognizes that laws impact genders differently. The theory advocates for legal reforms aimed at dismantling oppressive structures. In the context of sports governance in Kenya, using this approach will uncover the specific legal and policy barriers that women face in their quest to access leadership roles. Feminist jurisprudence advocates for legal reforms aimed at achieving gender equality.

1.2 Methodology

Doctrinal research design was used. Doctrinal methodology provides a systematic method of identifying existing laws and interpreting their implications on a specific issue, in this case, women's participation in sports governance. This methodology allows for a thorough understanding of how legal norms interact with societal practices. This study involved a thorough examination of existing international human rights instruments, national laws, international and national case law, constitutions of sports governing bodies, and journal articles. These documents were analyzed with a view to assessing how they promote or hinder women's involvement in sports governance.

1.3 Sampling Design and Sampling Techniques

Currently, there are 206 international sports federations (IFs). These organizations are affiliated with the International Olympic Committee (IOC). They govern a wide variety of sports worldwide. Examples include the International Federation of Football Associations (FIFA), International Basketball Federation (FIBA), World Athletics, and International Hockey Federation (FIH), just to mention a few. The study sampled about 10% of these, which worked out to 21 international federations. A similar number of corresponding regional and national sports organizations were also included in the study. The sampling technique was purposive sampling. The criteria for inclusion were those sports that enjoy popularity in Kenya and have a wide reach, including being

[1] S Parimala, J Nitisha, BP Kokil, S William, D Walson, B Hetshvi, (2025). A Study on the Comprehensive Development of Women in Various Sports. *International Journal of Research Publication and Reviews*, *6*(3), 7818-7824

[2] JA Adriaanse, (2017). Quotas to Accelerate Gender Equity in Sport Leadership: Do They Work? In *LJ Burton and S Lebermann (eds) Women in Sport Leadership — Research and Practice for Change* (Routledge, London), 83-97.

[3] J Whelan & R Wood, (2012). Targets and Quotas for Women in Leadership: A Global Review of Policy, Practice and Psychological Research. Centre for Ethical Leadership, Melbourne Business School, Melbourne.

[4] JM M'mbaha, (2016). Women in sport in Kenya: Leadership Styles and Practice. *African Journal for Physical Activity and Health Sciences*, *22*(1), 29-44.

taught in Kenyan schools. Purposive sampling allowed for the selection of federations that fit the prescribed criteria for inclusion.

1.4 Data Collection and Analysis

Data collection was done through the analysis of primary and secondary data. Primary data comprised international Conventions, Constitutions, Statutes, constitutions of sports bodies, and court decisions from international and national courts. Secondary data was gleaned from journal articles, books, website information, and commentaries on the policies in each of the selected sports.

In terms of data analysis, firstly, content analysis was done to identify patterns, themes, and consistencies within international conventions, constitutions, statutes, case law, and other relevant materials. Secondly, a comparative analysis was employed to compare how different sports bodies interpret similar legal texts or doctrines. From this analysis, it was possible to identify the differences and similarities between the selected sports. Thirdly, descriptive statistics were used for quantitative elements, such as the frequencies of men and women in higher echelons of sports management. Fourthly, it is the analysis of secondary materials that revealed the challenges the various sports bodies experience. Also, the progress made by the various sports bodies was inferred from an analysis of secondary materials. Lastly, all the findings were synthesized to draw conclusions from the analyses.

2. International Perspectives on Non-Discrimination of Women in Sports

The 1948 United Nations Universal Declaration on Human Rights (UDHR) outlines the rights and freedoms everyone is entitled to.[1] Article 7 of the UDHR states that, 'All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.' The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was enacted to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws, and adopt appropriate ones prohibiting discrimination against women.[2]

> Article 2 (e) (f) of CEDAW obligates States parties to
>
> […] take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise and to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

In the case of *Opuz*[3], the European Court of Human Rights (EctHR) addressed the principle of non-discrimination concerning women. The Court recognized that systemic failures by Turkish authorities to protect women from domestic violence violated their right to equal protection under the law, even if the discrimination was not intentional. Similarly, in *Morais*,[4] the ECtHR found a violation of Article 14 (non-discrimination) in which a domestic court reduced damages awarded to a female victim of medical negligence based on sex stereotypes.

The African Court on Human and Peoples' Rights (AfCtHPR) has emphasized that CEDAW obligates States to eliminate laws and practices that discriminate against women.[5] Also, AfCtHPR interpreted the issue of non-discrimination of women in the governance realm by invoking Article 2 of the African Charter that underscores non-discrimination of individuals based on analogous grounds. This was in the landmark decision of *Mwambipile*,[6] the applicants sought to challenge Tanzania's Regulation No. 4 of 2002, which allowed schoolgirls to be expelled from school and equally subjected to a mandatory pregnancy test. The AfCtHPR stated that excluding pregnant girls from school perpetuates gender stereotypes and entrenches systemic discrimination in the education system.

In the matter of *Harding-Marlin*,[7] the applicant was a Swimmer of St. Kitts & Nevis. She attained the qualifications required to be entered for the XXXII Olympic Games in Tokyo. She applied to her swimming

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[1] The 1948 United Nations Universal Declaration on Human Rights.

[2] The 1979 Convention on the Elimination of All Forms of Discrimination Against Women.

[3] *Opuz v Turkey*, No33401/02, ECHR 2009.

[4] *Carvalho Pinto de Sousa Morais v Portugal*, App No 17484/15(ECtHR 25 July 2017).

[5] *Actions pour la Protection des Droits de I' Homme (APDH) v Mali* (2017).

[6] *Tike Mwambipile & Equality Now v Tanzania*, Application No.42/2020.

[7] CAS ad hoc Division (OG Tokyo) 20/003 *Jennifer Harding-Marlin v. St. Kitts & Nevis Olympic Committee (SKNOC) & International Swimming Federation (FINA)*, award of 19 July 2021.

federation and her National Olympic Committee for inclusion in the team. She was the only swimmer in St. Kitts and Nevis who qualified for a Universality Place in swimming. The international swimming federation approved her selection, but it was up to the National Olympic Committee to forward her nomination. She was not selected. The National Olympic Committee did not give her any reasons. She brought an appeal to CAS in which she complained of discrimination on the grounds of the type of sport and race, amongst other grounds. The applicant argued that allowing a member of the athletics federation to compete on a Universality place and not from swimming, constituted discrimination based on the type of sport. The applicant urged her point on discrimination based on race by stating that the population of St. Kitts and Nevis was predominantly black and that whites constitute only 2.2% of the population. All the officials of the National Olympic Committee were black. She therefore advanced the view that being white, she was discriminated against based on race contrary to the provisions of Art. 44 of the Olympic Charter. The respondent argued that it does not receive applications from individuals and that the National Swimming Federation was not a member of the National Olympic Committee. The panel did not find sufficient evidence in support of discrimination.

3. Attempts at Gender Equality in Kenya

The Constitution of Kenya, 2010 provides for equality before the law, non-discrimination on account of gender, amongst other variables and for at least one-third of either gender to be represented in elective and appointive positions. This provision has elicited a lot of litigation, and courts have expressed their interpretation.[1]

In the matter of Kamuru, the court held that no legislation is required to effect the 2/3 gender rule in appointive positions.[2] In the case of *National Gender & Equality Commission*,[3] positions for Chief Justice, Deputy Chief Justice and one Judge of the Supreme Court fell vacant and were to be filled. The first and second were filled with a man and a woman respectively. First petitioner argued that the position of Judge of the Supreme Court should go to a woman in order for the Supreme Court to comply with the two-thirds gender rule. First petitioner wanted a situation where there are four men and three women, but there were five men and two women. So stated the court:

> 38.[…] Article 27(6) provides that other measures including affirmative action programmes and policies may be designed and taken to redress any disadvantage suffered by individuals and groups because of past discrimination; while Article 27(8) puts it even more clearly, that in addition to the measures, contemplated in clause (6), the state shall take legislative and other measures to implement the principle that not more than two-third the members of elective or appointive bodies shall be of the same gender.

With respect to the county governments, the Constitution of Kenya provides that ‘not more than two-thirds of the members of any county assembly or county executive committee shall be of the same gender’.[4] Whereas the county assembly comprises elected members, the county executive is made up of appointments made by the Governor. This provision obligates the political class to nominate as many members of a county assembly and county executive as are necessary to achieve the prescribed gender balance. Likewise, a county Governor must adhere to the gender rule while nominating officers of their ‘cabinet’. This works in Kenya.

The Sports Act of 2013 outlines the governance of sports in Kenya, emphasizing the need for equitable representation. While it does not specifically detail gender ratios within executive committees, it aligns with the Constitution’s provisions for non-discrimination and the promotion of gender equity in all sports-related activities. The Sports Act creates a body known as Sports Kenya.[5] In constituting the Board, the appointing authority is under an obligation to consider gender equity and affirmative action.[6] The same Act creates the Kenya Academy of Sports.[7] There is no obligation in the composition of the Council of this Academy for the appointing authority to consider gender balance.[8] The Act establishes the Sports Disputes Tribunal at section 55. The Tribunal is composed of five members with no mention of gender parity. Nevertheless, the Constitution

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[1] *Federation of Women Lawyers Kenya (FIDA-(K)) v Attorney General* [2011] eKLR.

[2] *Kamuru v Attorney General* [2016] eKLR.

[3] *National Gender & Equality Commission v Judicial Service Commission* [2017] KEHC 8343 (KLR).

[4] Constitution of Kenya, 2010, Art 197.

[5] Sports Act 2013, s3.

[6] Ibid, s6.

[7] Ibid, s33.

[8] Ibid, s35.

provides that it is the supreme law of the land[1] and that all government agencies must respect and obey it.[2] Thus, a wholesome reading of the Constitution would imply that all such bodies must consider the gender factor in appointing members to these bodies. Of course, the better view is to expressly indicate the matter of gender in all provisions. The Anti-Doping Act creates the Anti-Doping Agency[3] with a membership of ten persons.[4] In making these appointments, the cabinet secretary is required to comply with the constitution, meaning the gender rule and the inclusion of minorities.

The Sports Registrar Regulations, 2016 deal with registration and licensing of National Sports organizations (NSOs) and their constituent members at lower levels. These regulations allow National Sports Organizations and their affiliates to conduct elections according to their constitutive instrument.[5] This way, the government does not interfere with electoral rules as may be provided by a corresponding international body. At the same time, the regulations require NSOs to adhere to the constitutional prescription of non-discrimination.[6] In the case *Mambo*[7] the respondents amended the electoral code of the club to exclude women from contesting for any position. They argued that they were a private club and not bound by the strictures of the Constitution regarding discrimination. It was urged for the petitioners that the action by the respondents infringed their right to equality and non-discrimination as provided for under Article 27 of the Constitution. The court found in their favour.

Clearly, Kenya has laws in place aimed at promoting gender balance. How this plays out in sports governance is the subject of study here.

4. Hierarchy of Sports Bodies

Klausen & Selle state that the modernization of society from the days of the industrial revolution led to the growth of numerous associations and voluntary organizations. These organizations became structured into national movements and umbrella organizations.[8] From the outset, these organizations were membership-based and organized into a hierarchical and nationwide organizational structure with a democratic governance structure linking the local, regional, and national levels of organization.[9] This hierarchical and democratic organizational structure characterizes all sports organizations, with the added limb of an international organization. The hierarchical nature of sports bodies was restated in the case of *Peternell* as follows-[10]

> 3. The […] South African Equestrian Federation ("SAEF") […] is the domestic federation recognised by the *Fédération Equestre International* ("FEI"), in South Africa. The SAEF has a number of local associations which are affiliated to it and which represent the various different equestrian disciplines, […].

In such a hierarchical set-up, the umbrella organization relies on democratic practices to survive. Nevertheless, it turns out that most sports organizations are characterized by oligarchy, that is, the top few control the masses at the bottom. According to Michels, almost all voluntary organizations are characterized by the 'iron law of oligarchy' i.e. the control of the organization by those at the top and the lessening of influence by members.[11] This aspect of oligarchy is best illustrated by the Confederation of African Cycling as follows-[12]

> Twenty years ago, in 2005, Dr Mohamed Wagih Azzam from Egypt was voted as CAC President. He has won every election for this post since then. Apart from a few changes due to Federation presidents

[1] (n38) Art 2.

[2] Ibid, Art 3.

[3] Anti-Doping Act, 2016, s5.

[4] Ibid, s10.

[5] Sports Registrar Regulations, 2016, Reg 20(1).

[6] Ibid, Reg 20(2)(c).

[7] *Mambo v Limuru Country Club* [2014] eKLR.

[8] Klausen KK & Selle P, (1996). The third sector in Scandinavia. *Voluntas*, *7*(2), 99-122.

[9] Østerud, Ø, Engelstad, F, & P Selle, (2003). *Makten og Demokratiet* (Gyldendal Oslo).

[10] CAS arbitration N° CAS OG 12/01 *Alexander Peternell (South Africa) v South African Sports Confederation and Olympic Committee (SASCOC), South African Equestrian Federation (SAEF)*.

[11] B Enjolras and RH Waldahl, (2010, April). Democratic Governance and Oligarchy in Voluntary Sport Organizations: The Case of the Norwegian Olympic Committee and Confederation of Sports. *European Sport Management Quarterly*. DOI: 10.1080/16184740903559909

[12] Team Africa Rising, (2025, February 16). Confédération Africaine de Cyclisme (CAC) Elections – at <https://teamafricarising.org/cac_elections_feb2025/ > accessed 4 April 2025.

> in Rwanda and South Africa having to resign due to corruption issues, the CAC Management Committee has also remained pretty much the same for many years.

Lipset et al. consider three factors as being responsible for oligarchic governance of voluntary organizations. First, large-scale organizations give voluntary organizations officials a near monopoly of power. Second, the leaders want to stay in office since they may get prestige and material benefits from their positions. Third, the member may be passive.[1] Modern sports are organized in a hierarchical structure from the international level through regional/continental levels and finally to the national and club levels. At each level, there is an executive committee largely consisting of elected officials who make policies, leaving implementation to appointed officials. The annual general meeting (AGM) is used to elect officials to these organizations at various levels according to their own internal law.[2] These non-governmental sports organizations have an organised hierarchical governance system that allows autonomy to establish rules for each sport, governance structure, and dispute resolution mechanisms.

> This position has been stated thus-[3]
>
> 5. The International Olympic Committee ("IOC") is an international not-for-profit organisation, in the form of an association with the status of a legal entity, recognized by the Swiss Federal Council. The seat of the IOC is in Lausanne, Switzerland. The object of the IOC is to fulfil the mission, role, and responsibilities as assigned to it by the Olympic Charter. In between these missions, one of the paramount roles of the IOC is "to ensure the regular celebration of the Olympic Games" (Art. 2(3) Olympic Charter).

The National Olympic Committee (NOC) is a membership organization that represents sports federations and clubs from various levels. It is NOC's internal law that determines the procedure at the AGM. This includes verifying membership to ensure that those in attendance are actually eligible to be there. An elections board is formed to conduct the elections, to ensure voting is fair and made public. The rules provide for the election of representatives to the Board and to specialized committees, thereby expressing the sovereign power of an AGM.[4]

Enjolras and Waldahl carried out an empirical qualitative study of the Norwegian Olympic Committee and Confederation of Sports. They surveyed the umbrella organization, four sport federations (football, handball, athletics, and orientation); four regional federations, and eight local clubs. They collected data based on their observations of democratic processes (general assembly, board meetings), analysis of internal documents, and about 50 interviews of leaders and board members at all levels.[5] They sought to know how an AGM is conducted in a Norwegian umbrella sports body. They observed a lack of participation.[6] Lack of the involvement at AGMs is attributed to several reasons. Firstly, there is a general feeling that what they say at such meetings does not matter. Secondly, some officials are so busy running sports at a given level that they do not want to be more involved in higher sports politics. Thirdly, some members are more engaged than others. Another reason is an economic one. Participating in sports leadership on a voluntary basis costs money and time. Only those with money can take up leadership roles. Lastly, participation in AGMs requires skill and knowledge — speaking skills and knowledge of the sport. Participation at AGMs is also low because most leaders at the lower levels are also active sportspeople. That leaves them with little time to engage in the politics of the sport. Also, at the NOC level, the issues canvassed become more abstract and divorced from the needs at the grassroots level.[7]

This picture of an AGM is indeed characteristic of almost all AGMs in sports federations, except the international ones. This kind of scenario is likely to be used by those sports federations not keen on gender equity to maintain the status quo to the exclusion of women officials in top executive positions of these federations. Given that officials at 'club level' form the electoral college for a NSO and that officials of NSO in turn form the electoral college for the international federation, it is important that women be represented at lower levels so that they can then ascend to the international levels through the hierarchy of a given sports body.

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[1] SM Lipset, MA Trowand, JS Coleman, (1962). *Union Democracy* (New York Anchor, Books).

[2] n53.

[3] CAS arbitration N° CAS OG 12/*01 Alexander Peternell (South Africa) v South African Sports Confederation and Olympic Committee (SASCOC), South African Equestrian Federation (SAEF).*

[4] n53.

[5] n53.

[6] Ibid

[7] Ibid.

Something notable from Limuru Country Club (an affiliate of Kenya Golf Union) is the proviso to Article 58 of the Club's Constitution, which deals with the power to make By-laws. This states that;[1]

> The Directors shall adopt such means as they deem sufficient to bring to the notice of Members of the Company all such By-Laws, amendments and repeals and all such By-Laws, so long as they shall be in force, shall be binding upon all Members of the Company […].

Herein lies the key to denying or providing equal chances for women in the top leadership of this club.

> Art 52.2 The Directors of the Company shall, subject to the approval by the Company in an Annual General Meeting have power from time to time to make, alter and repeal any or all such Bylaws as they may deem necessary or expedient or convenient for the proper conduct and management of the Company and the Club and Club Facilities and in particular (but without prejudice to the generality of the foregoing) they may by such Bylaws regulate-
>
> 52.2.1 The admission of temporary, honorary and other Members of the Company and the rights and privileges of such Members, […][2]

Clauses like the above can be used to either include or exclude women from top leadership positions.

5. An Analysis of the Current Rules/Constitutions of and Status of Women in Top Leadership Positions in International, Regional, and National Sports Federations

International sports bodies operate within an environment that promotes human rights. The International Olympic Committee (IOC) sits at the apex of the sports organization, guided by the Olympic Charter. While the Olympic Charter lacks specific gender quota requirements for executive board composition, the IOC committed to a target of 30% female representation in the leadership of the Olympic Movement by 2020.[3] It was to achieve this through actions such as changing the composition of the IOC executive board and turning the composition of the vice-president positions into an equal representation of women and men, requiring National Olympic Committees and International Federations to 'submit one female candidate for every male candidate nominated to fill one of the member positions up for election'; and reviewing the electoral processes.[4] Currently, female representation in the IOC's executive board has grown to 33%, and further that 48% of all athletes participating in the Tokyo Olympics were female.[5] At the time of writing, the IOC had just elected a woman as its President. These meaningful strides signal the IOC's growing commitment towards fostering gender balanced governance within its leadership structures. However, the IOC needs to show more commitment by setting aside a specific minimum quota to be filled by either gender, to which it can be held accountable. Even with a female President at the helm, there is a need for clear legal provisions in the Olympic Charter catering to gender balance in the executive committee. An analysis of representation of women in international sports bodies is presented in Table 1.

Table 1. The Proportion of Women in Executive Boards of International Sports Associations as of November 2024

Serial No.	Organization	Total Members	Women Members	Percentage of Women Members
1	IOC	15	5	33%
2	Basketball - FIBA	12	3	25%
3	World Athletics	9	2	22
4	Hockey -FIH	12	5	41.67%
5	Aquatics FINA	21	1	5%
6	World Rugby	13	3	23%

[1] Articles of Association of Limuru Country Club at https://test.limurucountryclub.co.ke/wp-content/uploads/2024/10/Limuru-Country-Club-Articles-of-Association-2022.pdf accessed 3 April 2025.

[2] n62.

[3] Olympic Charter, rule 19; International Olympic Committee, *IOC Gender Equality Review Project*, Lausanne, 2018.

[4] International Olympic Committee, *IOC Gender Equality Review Project*, Lausanne, 2018 Recommendations 19 & 20, p. 23.

[5] International Olympic Committee, *Gender Equality and Inclusion Report*, *2021t* (Lausanne, 2021).

7	Soccer - FIFA	36	6	17%
8	Volleyball -FIVB	13	3	23%
9	Gymnastics – FIG	24	5	20.8%
10	Boxing-	14	4	28.6%
11	Equestrian - FEI	21	10	47.6%
12	Cricket – ICC	22	0	0%
13	World Netball	9	7	78%
14	Tennis – ITD	11	2	2%
15	Cycling – UCI	20	6	30%
16	Handball – IHF	5	2	40%
17	Golf – IGF	8	2	25%
18	International Fencing Federation – FIE	23	4	17%
19	Rowing – FISA	7	4	57%
20	Judo – IJF	26	6	23%
21	World Badminton Federation - WBF	30	10	33%

World Rugby (WR) governs the sport of rugby union and rugby sevens globally, organizing the Rugby World Cup and setting international rules. The WR Byelaws establish a thirteen-member executive board that comprises three independent members, two of whom must be female, and two international rugby player nominees, with a minimum of one female. Thus, women have a minimum representation of approximately 23% of the executive board. Interestingly, WR has 23% of women at the helm, which goes to show the increasing commitment of WR towards gender balance governance. WR can achieve a 30% representation of women by having all three independent members as women. However, WR needs to set an explicit quota of say, at least four female members in its 13-member executive to guarantee a reasonable quota for women's inclusion.

World Athletics (WA) oversees track and field athletics, managing major events such as the World Athletics Championships and setting competition regulations. The World Athletics Constitution establishes a twenty-six-member Council, with a minimum number of representatives from each sex required to be elected. World Athletics has set clear gender quota targets for its 26-member Council — 40% by 2023 and 50% by 2027.[1] Currently, the council membership of women stands at 48%. This is quite commendable for a sport that has a very broad following globally.[2] The WA Constitution sets a minimum of 37.5% for each gender on the executive board by 2027.[3] Women constitute 22% of the executive board at the moment. Whereas this shows a progressive shift towards reaching gender parity, WA can follow the path it did for its Council to guarantee gender parity without being aspirational.

The Fédération Internationale de Football Association (FIFA) governs football internationally and organizes major tournaments such as the FIFA World Cup. The FIFA Statutes provide for the thirty-six-member council, including twenty-eight elected representatives from member associations. Each of the six confederations is required to elect at least one female representative, ensuring that a minimum of six out of the thirty-six association representatives are women.[4] This works out to a minimum of 17% female representation on the council. This is below the required international standard of 40%. In addition to the six 'reserved' seats, FIFA needs to amend its statutes to provide for appointment to raise the total number of women to at least 15.

The International Cricket Council (ICC) is the global governing body for cricket. The ICC sets the rules and regulations of the game, organizes international competitions, including the ICC Cricket World Cup. The ICC Memorandum does not provide for any quota provisions for the board of directors.[5] In addition, the ICC has

[1] World Athletics Constitution, Art 41.

[2] World Athletics at <https://worldathletics.org/about-iaaf/structure/council> accessed 14 April 2025.

[3] The World Athletics Constitution, Art 57.

[4] Fédération Internationale de Football Association (FIFA), *FIFA Statutes*, regulation 33.

[5] International Cricket Council (ICC), *Memorandum of Association and Articles of Association of the International Cricket Council Limited*, clause 4.6.

zero percent (0%) women on its board of directors. To that extent, the ICC must be called out for ignoring all international treaties that prohibit discrimination against women. More particularly, the ICC needs to amend its constitution to provide for at least 40% women on its council.

The Fédération Internationale de Hockey (FIH) is the international governing body for field and indoor hockey. It oversees the rules of the game and organizes major competitions such as the Hockey World Cup. The FIH Statutes & General Regulations establish an executive board that consists of fifteen elected members, the Chief Executive Officer, and co-opted members. Of the elected members, eight are ordinary members elected by Congress, with a minimum requirement that at least four must be women.[1] This represents 26.7% female representation of the elected members on the executive board. However, FIH currently has 33.3% female representation in the executive board. FIH needs to set a quota provision of a minimum of six female members.

The International Tennis Federation (ITF) governs tennis worldwide, organizing important competitions like the Davis Cup and the Olympics. The ITF Constitution does not prescribe any quota provision for the board of directors, who total around 12 to 15 members.[2] At the moment, ITF has 16% women in its top governance organ, which is far below the recommended 40%. The ITF needs to set aside a quota of at least six women on its executive board.

The International Basketball Federation (FIBA) is the governing body for basketball and oversees international competitions like the FIBA Basketball World Cup and the Olympics. The FIBA General Statutes provide for an executive committee with eleven members. The executive committee is required to include members of both genders, but no specific quota for female representation is outlined.[3] Currently, women's representation at the top level is at 25%, despite general gender equality targets for the executive committee. FIBA needs to reserve at least five seats for women on its executive board to increase the percentage of women to 45%.

The International Volleyball Federation (FIVB) governs indoor and beach volleyball internationally and organizes competitions such as the Volleyball World Championships and Olympic tournaments. The FIVB Constitution stipulates that the board of administration, comprising between 32 and 36 members, must include two members from the minority gender.[4] In practice, the FIVB has 23% women in its top organ, which leaves room for improvement to attain gender balance. In particular, FIVB needs to double the current female representation from three to at least six. The International Golf Federation (IGF) is the international federation for golf in the Olympic Games and Paralympic Games. The IGF Constitution establishes a board of 10 members, with 20% representation from women, including two female representatives: one from the Ladies Professional Golf Association and one from the Women's Chairman of the Administrative Committee.[5] The female representation at the board level is at 25%, which is far below the requirement of at least 40%. Here, IGF needs to provide for an explicit gender quota of at least four members on its executive committee.

The International Boxing Association (IBA) is the governing body that promotes and supports the sport of boxing worldwide. The IBA Constitution establishes a board of directors with 18 members, including at least 33% female representation.[6] This figure can vary to even below it since it is not anchored in the statutes of the IBA. In addition to other provisions for gender inclusion, IBA needs to reduce the number of elective positions from the current 10 to six and then provide for the appointment of the remaining in such a manner as to attain a minimum of 40% representation. In more absolute terms, IBA needs to provide for at least eight women on its board of directors.

The International Equestrian Federation (FEI) governs and promotes horse riding sports worldwide. The FEI Statutes establish a seven-member executive board, with no specific gender quota.[7] Women constitute 47.6% of the top governance body, showcasing strong representation despite the absence of a formal quota. To guarantee the sustainability of such a representation, there is a need to build a specific quota in the statutes of FEI.

The influence of international sports bodies on regional organizations is profound, extending from governance and policy implementation down to the operational level of sports competitions. As a result, regional bodies must navigate and adapt to these international requirements to secure legitimacy, funding, and success on the

[1] Fédération Internationale de Hockey (FIH), *Statutes and General Regulations*, Art 7.1(a)(ii).

[2] International Tennis Federation (ITF), *Constitution*, Art 11.1.

[3] International Basketball Federation (FIBA), *General Statutes*, Art 15.2.4.

[4] Fédération Internationale de Volleyball (FIVB), *Constitution*, Art 2.4.1.

[5] International Golf Federation, *Constitution* (adopted 1 October 2018), Art 8.1.

[6] International Boxing Association, *Constitution* (adopted 2021), Art 15.2.

[7] Fédération Équestre Internationale, *Statutes* (2021), Art 26.

global stage, all while promoting the growth and development of sports within their jurisdictions. These bodies play crucial roles in the governance, development, and promotion of sports across Africa. They collaborate with national federations and promote continental and international competitions to advance sports on the continent. Therefore, in the hierarchy of sports, these regional bodies are a crucial medium through which gender equity can infiltrate from national to international levels. Their constitutive instruments set a firm foundation for cascading implementation right to the local level. In Africa, several bodies govern sports organizations and oversee various sports at both national and continental levels.

Table 2 shows the proportion representation of women in executive boards of regional/African sports bodies.

Table 2. Women's Representation in Executive Boards of Regional Sports Bodies as of November 2024

Serial No.	Organization	Total Members	Women Members	Percentage
1	Association of National Olympic Committees of Africa (ANOCA)	15	2	7%
2	FIBA Africa	12	2	16.7%
3	Confederation of African Athletics	9	3	33%
4	African Hockey Federation (AfHF)	8	1	12.5%
5	Africa Aquatics	13	2	15.4%
6	Confederation of African Football (CAF)	34	2	5.9%
7	African Volleyball Confederation (CAVB)	12	1	8%
8	Rugby Africa	13	2	15.4%
9	African Gymnastics Union	4	0	0
10	Africa Boxing Federation	10	1	19%
11	African Confederation of Equestrian Sports (ACES)	-	-	-
12	Africa Cricket Association (ACA)	13	1	7.7%
13	Africa Netball Confederation (ANC)	6	6	100%
14	Confederation of African Tennis	10	2	20%
15	African Cycling Union	10	3	30%
16	Africa Handball Confederation	18	0	0%
17	Africa Golf Confederation	8	0	0%
18	African Fencing Confederation	-	-	-
19	African Rowing Federation (FASA)	-	-	-
20	African Judo Union	9	0	0%
21	Badminton Confederation of Africa	15	3	20%

Rugby Africa is the governing body for rugby union and rugby sevens in Africa. It organizes tournaments and competitions, including the Africa Rugby Championship. The Rugby Afrique Constitution does not specify a minimum gender quota provision for the executive committee composition.[1] The executive committee has 15.4% women represented at this level. This could be linked to the fact that there is a lack of mandatory gender equality rules. The Confederation of African Athletics (CAA) oversees the regulation, development, and promotion of the sport across Africa. As per the CAA Constitution, the council comprises eighteen elected officials, including a designated female vice president and at least five female representatives from the regional associations.[2] This provision shows an effort towards gender inclusion, but it does not outrightly provide for mandatory gender quotas. Currently, women make up thirty-three percent (33%) of the council, which is slightly below the forty percent (40%) minimum threshold.

[1] The Rugby Afrique Constitution, bye-law 8.1.

[2] The Confederation of African Athletics, *Constitution*, Art 9.1.

The Confederation of African Football (CAF) is the governing body for football in Africa. It manages national competitions, oversees the Africa Cup of Nations, and represents African football interests in FIFA. The CAF Statutes provide for only one female in a twenty-one-member executive committee, which is too low to meet the minimum gender equality threshold.[1] CAF has 5.9% women in its executive committee, which reflects a very low level of commitment to gender equality embodied in its constitutive instrument. The Confederation of African Tennis (CAT) is the governing body for tennis in Africa that is responsible for developing and promoting the sport across the continent.

The Confederation of African Tennis (CAT) Constitution establishes an executive committee that has a membership of ten officials, with two (20%) being women.[2] Just like the Confederation of African Football, this gender quota is too low to meet the forty percent (40%) minimum threshold. Thus, the low numbers in the committee are a reflection of the weak provisions on gender balance governance in the constitutive instrument.

Africa Aquatics governs swimming and related aquatic sports across Africa. It organizes African competitions and works to develop the sport throughout the continent. There is no gender quota framework in the Bureau composition provided for in the CANA Constitution.[3] However, women constitute 15.5% of its executive board. This figure is unsustainable in the absence of legal guarantees.

The African Boxing Confederation (AFBC) is the governing body for amateur boxing in Africa, and it is responsible for organizing continental competitions and supporting national federations. The AFBC Constitution provides for a ten-member board of directors, including one (19%) female representative, a figure that falls short of what its international mother body has (33%). This low representation could be explained by the fact that boxing is not a very popular sport amongst women in Africa. Nevertheless, AFBC needs to provide for the nomination of women to its top governance organ.

The African Cricket Association (ACA) is the governing body for cricket in Africa, promoting the sport across the continent and representing its interests internationally. The Constitution of the African Cricket Association does not include any quota provisions regarding women's leadership in the council, resulting in only 7.7% female representation in its executive council.[4] This is a reflection of its mother organization, the ICC (0%). This is a case where the election laws of the cricket bodies ought to be changed to provide for quotas for women.

The African Hockey Federation (AfHF) is responsible for the governance and development of field hockey across the African continent. It organizes tournaments such as the Africa Cup of Nations for both men and women and works to promote the sport at all levels. AfHF Statutes establish an executive board that includes five elected officials, with at least two women and two men.[5] This guarantees at least forty percent (40%) of female representation at the top level and is consistent with international best practice.

The level of women's representation across the sampled regional sports organizations ranges from 0% to 100%. All except Netball and Hockey fall below the forty percent (40%) minimum gender balance threshold. Five of the regional sports organizations have some form of quota requirements embedded in their constitutive instruments, making them firm legal commitments capable of enforcement. However, these quota provisions are weak and may not result in a significant change in the promotion of gender parity. Only the African Hockey Federation has strong, explicit quota provisions that ensure at least forty percent (40%) female representation in their governance structures. Given the limited number of regional sports organizations with explicit gender quota provisions, the existing frameworks demonstrate minimal progress and bring out the urgent need to align gender equality measures with international standards.

Of the 21 African sports federations sampled, only 4(19%) have women's representation of at least 30%. This is, although their mother international bodies even have larger quotas for women on their executive boards. This could be an illustration that talking about 'targets' is not good enough. There is a need to have 'quotas' built into the constitutive instruments to which the bodies can be held accountable.

Kenya has a vibrant sports culture and is home to several national sports organizations (NSOs) that govern various sports disciplines. Table 3 shows women's representation in Kenyan sports federations.

[1] Confederation of African Football, *CAF Statutes*, Art 22.

[2] Confederation of African Tennis, *Constitution*, Art 12.3.

[3] CANA Constitution, Art 10.

[4] Constitution of the Africa Cricket Association, Art 22.1

[5] The African Hockey Federation (AfHF) Statutes, Art 6.2.

Table 3. Women's Representation in Executive Boards of National Sports Governing Bodies as of November 2024

Serial No.	Organization	Total Executive Members	Women	Percentage
1	National Olympic Committee – Kenya (NOC-K)	25	5	10%
2	Kenya Basketball Federation (KBF)	10	2	20%
3	Athletics Kenya	18	5	27.8%
4	Kenya Hockey Union (KHU)	12	2	16.67%
5	Football Kenya Federation (FKF)	15	3	20%
6	Kenya Swimming Federation (KSF)	10	4	40%
7	Rugby Football Union of Kenya (RFUK)	20	3	15%
8	Kenya Volleyball Federation (KVF)	10	3	30%
9	Gymnastic Federation of Kenya	-	-	-
10	Boxing Federation of Kenya	10	3	30%
11	The Horse Association of Kenya (HAK)	7	4	57%
12	Cricket Kenya	5	1	20%
13	Kenya Netball Federation	6	5	83%
14	Kenya Lawn Tennis Federation	11	1	9%
15	Kenya Cycling Federation	-	-	-
16	Kenya Handball Federation	-	-	-
17	Kenya Golf Union	10	0	0%
18	Kenya Fencing Federation (KFF)	2	2	100%
19	Kenya Rowing & Canoe Federation (KEN)	-	-	-
20	Kenya Judo Federation	6	2	33%
21	Kenya Badminton Federation	-	-	-

The Kenya National Olympic Committee (NOC-K) governs the Olympic movement in Kenya. The national organization oversees preparation for the Olympic Games and other international competitions. The constitutional threshold on gender balance provides that the executive committee composition should not have more than two-thirds of the same gender (33%).[1] Currently, NOC-K has ten percent (10%) women on its executive committee, exhibiting very low levels of female inclusion.

The Kenya Rugby Union (KRU) governs rugby in the country and promotes both men's and women's rugby development. The Kenya Rugby Union Constitution is silent on the quota provisions for the union board composition.[2] However, female representation on this board is at fifteen percent (15%), which is less than half of what is required in the gender balance principle. Athletics Kenya (AK) is the athletics governing body, organizing local and international competitions, and supporting athlete development at the local level. The Athletics Kenya (AK) Constitution establishes a twenty-member executive committee, including three individual members with no more than two of the same gender, and five co-opted members, of whom no more than four may be of the same gender.[3] Though these provisions are not explicit gender parity provisions, they do provide a minimum gender balance standard. In practice, the committee comprises twenty-seven percent (27.8%) women, which falls short of the thirty-three percent (33%) gender balance principle. Noteworthy is that AK has provisions for appointing five members, a provision it can easily use to achieve at least 40% representation of women.

Football Kenya Federation (FKF) governs football and oversees domestic leagues and national teams. The FKF

[1] Sports Registrars Regulations, Regulation 20 (2) (2).

[2] Kenya Rugby Union Constitution, Art 10.

[3] Athletics Kenya (AK) Constitution and Rules, Art 19.

Constitution prescribes the national executive committee with a membership of 14, of which two (14%) are female.[1] Given the immense popularity that football enjoys in Kenya across both genders together with constitutional imperatives, FKF needs to provide for more women representation. The Kenya Aquatics governs swimming and organizes events at various levels. The Constitution of Kenya Aquatics does not provide any quota provisions for the executive board composition.[2] Even with no gender equality provision, Kenya Aquatics has achieved gender parity in its executive board composition with forty percent (40%) women's representation. Nevertheless, to ensure certainty, this quota must be legalized.

The Kenya Golf Union (KGU) is the governing body for amateur golf in Kenya, which is responsible for the development and promotion of the sport. The Kenya Golf Union Constitution does not specify any quota provisions for the composition of the executive committee.[3] As a result, female representation stands at an alarming zero percent (0%). This is notwithstanding that there are many female golfers in Kenya. This scenario makes it difficult for KGU to nominate a woman to a leadership position at higher (international) levels.

The Horse Association of Kenya is the key equestrian body in Kenya that promotes and organizes horse sports. The provisions in the Horse Association of Kenya Constitution do not prescribe minimum quota requirements for executive committee composition.[4] This organization has met gender parity and even surpassed the desired forty percent (40%) threshold by having fifty-seven percent (57%) of women represented at the executive committee. This demonstrates strong gender inclusivity.

Seven (33.3%) of the sampled sports bodies in Kenya have fulfilled the constitutional requirement of at least one-third gender involvement. The figures for netball (83%) and fencing (100%) need comment. Netball is a game mainly for women, and therefore the assessment should take a reversed form of how many men have been included. Fencing in Kenya has two officials, both of whom are women, hence the figure of 100%. This can be explained by the fact that the sport of fencing is not very popular in Kenya. Commendable is the Boxing Federation of Kenya, which has 30% representation. Worrying is Athletics Kenya and the Kenya Volleyball Federation. Athletics is the most popular sport in Kenya, only second to football. As opposed to football, there is a higher percentage of female participation in athletics. Athletics Kenya has in its rules a provision to co-opt five members to its executive board. All Athletics Kenya needs to do to achieve the constitutional requirement is to increase the number of co-opted members and make it explicit that such co-optation is for gender balance. Female volleyball players have performed much better than their male counterparts in regional and international competitions. The female team has participated in the Volleyball World Championships and the Olympics. The female volleyball clubs have excelled on the African continent. This sterling performance has gone on for about three decades. The 30% representation of women on the executive board of KVF does not represent the actual state of volleyball in Kenya. The girls have outperformed the boys. This recognition needs to feature on the executive board as well.

A comparison of female representation in the executive boards of international, regional, and national sports bodies is summarized in Table 4. This figure illustrates a representation of women that ranges from 0%-78% at the international level. The sports that have at least 30% representation of women are Netball (78%), Rowing (57%), Equestrian (47.6%), Handball (40%), Boxing (33%), Badminton (33%), Hockey (33%), IOC (33%), and Cycling (30%). These numbers represent less than half of the sports sampled. Given the influence these international sports federations have on the regional, national, and club levels, they must set the correct tone of gender parity and compel their affiliates to follow suit.

Table 4. A comparison of the Percentage representation of women in top executive boards of sports federations at international, African, and Kenyan levels

SERIAL NO.	TYPE OF SPORT	INTERNATIONAL	AFRICAN	KENYAN
1	Olympic	33	7	10
2	Basketball	25	16.7	20
3	Athletics	22	33	27.8

[1] Football Kenya Federation (FKF) Constitution, Art 37.

[2] The Constitution of Kenya Aquatics, Art 8.1.

[3] The Kenya Golf Union Constitution, Art 12.2.

[4] The Horse Association of Kenya Constitution, Art 25.

4	Hockey	33	40	16.7
5	Aquatics	5	15.4	40
6	Rugby	23	15.4	15
7	Football	17	5.9	14
8	Volleyball	23	8	30
9	Gymnastics	20.8	0	-
10	Boxing	33	19	30
11	Equestrian	47.6	-	57
12	Cricket	0	7.7	20
13	Netball	78	100	83
14	Tennis	16	20	9
15	Cycling	30	30	-
16	Handball	40	0	-
17	Golf	25	0	0
18	Fencing	17	-	100
19	Rowing	57	-	-
20	Judo	23	0	33
21	Badminton	33	20	-

Most of the international sports bodies provided for strong quota provisions by having explicit numerical quotas. This sets out a non-negotiable floor of women's representation at top-level governance structures. The ripple effect is that these organizations often demonstrate improved gender representation. Only two organizations set targets above the international threshold of forty percent (40%) minimum female representation requirement. World Athletics provides for fifty percent (50%) female representation in the council from 2027, and the International Hockey Federation also provides fifty percent (50%) female representation in the executive board. Even where there exist strong quotas, the actual representation of women leaders still falls short. Some organizations included general gender equality provisions in their constitutive instruments, with others lacking any quota provisions altogether, effectively leaving it to the discretion of each sports organization to determine whether or not to pursue gender parity within their governance structures. The absence of explicit quotas, therefore, may result in minimal or no female representation in the governance structures.

Gauging the level of female representation in various NSOs against the thirty-three percent (33%) constitutional gender balance principle reveals significant disparities. These findings underscore ongoing disparities in gender representation within sports governance at the national level. Out of the sampled sports, only four NSOs have at least forty percent (40%) women in leadership, although none of their constitutive instruments have strict quota requirements in place. Only one of the NSOs (FKF) has set a minimum threshold; most had general equality provisions or no quota provisions. The absence of formal rules in the constitutive instruments of NSOs for minimum women's representation in leadership positions would mean that there is no mandatory gender inclusion at the decision-making and executive position levels. This also implies that the lack of formal provisions at the national level prevent quotas at the international level from being realized, given the hierarchical nature of sport. This pathetic Kenyan situation also means Kenyan women have no chance of featuring on executive boards of international sports bodies, save for netball, which is predominantly a women's sport. Of equal concern is that out of the 21 sports sampled, only Aquatics (40%) and Equestrian (57%) fulfill the constitutional requirement of at least one-third of either gender. These sports bodies operating in Kenya are duty-bound to obey the constitution. It begs repeating that international sports federations have committed themselves to gender parity. Such commitment aligns well with the Kenyan constitution, which provides for elective and other measures to achieve gender parity. The lack of gender parity in top executive committees of national sports organizations is illegal to the extent that it violates the provisions of Art 27 of the Constitution. Clear minimum quotas for women's representation in top executive boards of NSOs should be embedded at every level, starting from local clubs and county associations. The domino effect would be a substantial increase in the percentage of women leaders at the executive level.

6. Conclusion

For many decades, women have persistently remained underrepresented in leadership roles within national and international sports federations. This is despite the existence of legal and institutional frameworks designed to promote gender equality. Sports depict a hierarchical structure that promotes oligarchy by men. These men are reluctant to relinquish their positions due to the privileges they enjoy. This situation is made worse by the non-existence of special measures designed to include a fair representation of women in these organizations. The AGM is used to elect officials from the lowest level to the highest level. For women to feature at regional and international levels, they must have been elected or nominated at the national level. In an attempt to include women, some sports federations have an inbuilt mechanism within the electoral rules that either reserves certain seats for women or provides for nomination of women. The situation is bad, as over 90% of the bodies have not achieved the minimum one-third (33.3%).

While international and regional legal instruments such as CEDAW, the Maputo Protocol, the UDHR, ICCPR, Olympic Charter, African Charter and relevant case law from the ECtHR, the ACtHPR, the Kenyan Courts, and the Court of Arbitration for Sport provide clear commitment for gender equality in sport governance, challenges of enforcement abound. This research sought to investigate whether gender equality is a criterion within the constitutive instruments of sports governance bodies. This would be symbolized through minimum representation quotas for women in decision-making bodies. The research looked into women in top-level leadership positions, that is, women in decision-making positions such as executive boards and councils. Twenty-one sports at each of the international, regional, and national levels were identified, and their constitutive instruments were analyzed for gender balance.

A review of these instruments alongside domestic laws, including the Kenyan 2010 Constitution, the Sports Act, the Anti-Doping Act, and decisions from the Sports Disputes Tribunal and the Courts, highlights the critical challenges facing the realization of gender equality in the sports governance structures. The International Olympic Committee, World Athletics, and FIFA have set themselves targets for gender parity, and they are working towards achieving them. Besides setting targets, they are reviewing their constitutions to provide for gender equity. This is what similar sports bodies and their affiliates at regional and national levels ought to emulate.

We therefore conclude that addressing these barriers of inequality requires a comprehensive, multi-pronged approach. First, there is a need to write specific quotas (minimum 40%) for women in the constitutions of these sports bodies at all levels. Secondly, sports bodies should take all measures, both elective and affirmative action, to ensure gender parity in their executive boards. Thirdly, and with respect to Kenya, sports bodies must be compelled at the pain of deregistration to comply with the constitutional edicts. It is therefore possible to increase the participation of women in executive boards of sports federations at all levels. The office of the Sports Registrar needs to be extra vigilant in enforcing the constitutional requirements of gender balance.

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The Effect of Financial Literacy on the Adoption of FinTech Services in the Mfoundi Division, Cameroon

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Abstract

This study investigates the effect of financial literacy on the adoption of FinTech services within the Mfoundi Division of the Centre region of Cameroon. A quantitative research approach was employed, using a questionnaire to collect data from a total of three hundred individuals were purposively sampled and data was collected through the use of structured questionnaires guided by parameters as observed in the Technology Adoption Model (TAM). Hypotheses were tested using the CB-SEM technique with analytical packages including SPSS 24 and AMOS 23. The findings revealed limited utilization of online banking and peer-to-peer lending platforms, with cryptocurrency exchanges and crowd-funding platforms ranking as the least utilized instruments. Additionally, the study establishes a significant influence of both financial knowledge and financial behaviour on the adoption of FinTech services. Individuals who comprehend the financial benefits of FinTech and perceive these services as innovative solutions are more likely to adopt them. This positive attitude is driven by the perceived ease of use, transaction tracking, and the potential to generate income through FinTech solutions. However, this paper did not find any statistically significant effect of financial skills on the adoption of FinTech services. Therefore, financial knowledge and a positive attitude toward FinTech services emerged as pivotal factors positively influencing financial services adoption in the Mfoundi Division, Cameroon. The study therefore recommends that policy makers and fintech service providers should prioritized financial literacy programs aim at improving financial knowledge and a positive attitude to enhance the adoption of FinTech services in Cameroon.

Keywords: financial literacy, financial technology, financial knowledge, financial skills, adoption

1. Introduction

Financial Technology (FinTech) has revolutionized the financial landscape globally, offering innovative solutions for financial inclusion, payments, and investments (Gomber et al., 2018). However, the adoption of FinTech services remains a challenge in many developing countries, including Cameroon (Demirgüç-Kunt et al., 2018). Financial literacy is a critical factor influencing the adoption of FinTech services (Lusardi & Mitchell, 2014). This study aims to investigate the effect of financial literacy on the adoption of FinTech services in Mfoundi Division, Cameroon.

Despite the increasing popularity of Financial Technology (FinTech), a substantial number of individuals still lean towards traditional financial services, and in some cases, are not even aware of the existence of FinTech (Moufakkir & Mohammed, 2021). Given the escalating demand for financial services in both developed and developing economies, the adoption of FinTech is crucial for enhancing financial inclusion and promoting financial literacy (Bernards, 2019). FinTech is a notable invention within the finance industry. As highlighted by Hosen et al. (2023), the potential of FinTech to revolutionize the financial sector by offering convenience and

security in financial transactions has garnered significant recognition. Bernards (2019) suggests a growing trend of household activities migrating to FinTech platforms, where a few mobile apps can provide the facilitation and convenience that replace traditionally time-consuming and high-qualification financial services, effectively meeting consumers' economic needs. FinTech is a broad term and applies to many innovations such as Insurance Technology (InsurTech), Regulation Technology (RegTech), Robo Advisers and Advertising Technology (AdTech). FinTech has emerged as a buzzword in the financial sector, propelled by several factors such as technological advancements, market-driven business innovation, cost-efficiency needs, and evolving customer requirements. Murinde et al. (2022) stated that FinTech has become a key investment focus for many leading financial institutions.

According to Gai et al. (2018), FinTech is a novel technology used in the financial services industry. Meanwhile Bureshaid et al. (2021) opined that FinTech is the marriage of finance and information technology. These FinTech technologies are rapidly changing the operandi of how clients of financial institutions and the general population shop, save, borrow, and make other financial decisions (Feyen et al., 2021). Payment technologies like debit cards and mobile money which enable consumers to make retail payments and transfers through a bank account or mobile phone can benefit both the demand and supply sides of the market (Demirguc-Kunt et al., 2015). These changes have significant advantages for both the demand and supply sides of the market. With these changes, consumers are benefiting in terms of greater convenience, security, and affordability unlike in the traditional banking approach. These FinTech services bring more financial inclusion to all (Demirguc-Kunt et al., 2017). For example, consumers can use digital payments to make purchases online or in stores without having to carry cash around. Digital payments are also often more secure than traditional methods of payment, such as cash or checks. Additionally, many digital payment providers offer low or no fees for transactions (Barroso & Laborda, 2022).

According to the World Bank (2022), digital payments can help businesses process transactions more quickly and easily. The World Bank (2022) also states businesses can sell digital products or services through their websites or mobile apps, generating new revenue streams. Bachas et al. (2021) added that consumers benefit from financial technologies through lower transaction costs, such as the costs of traveling to a bank branch or ATM to withdraw cash. Irrefutably, FinTech services, particularly Mobile Money technology, have revolutionized the financial landscape in sub-Saharan African countries, triggering socio-economic transformations. In 2021, the region saw a 12% year-over-year increase in registered mobile money users, reaching a staggering 548 million. These users conducted transactions worth US$490 billion, totaling 27.4 billion transactions (GSM Association, 2021). According to Talom & Tengeh (2020), in Cameroon, apart from households, Small and Medium-sized Enterprises (SMEs) have greatly benefited from FinTech services like mobile money transfer and receipt services. They stated that these services have accounted for approximately 73% of the total variance in the turnover of SMEs in Douala since they adopted the technology. The 2019 GSMA Mobile Connectivity Index reported that a vast majority (96%) of Cameroon's population has access to a mobile GSM network (2G and above). This widespread access positions Cameroon as a strong contender for continuous exploration of Financial Innovation services like Mobile Money to further accelerate financial inclusion (Ndassi et al., 2023).

However, with the increase in the number of available financial products and their growing complexity, there is a corresponding need for clients to enhance their knowledge, attitudes, and skills to utilize these FinTech services and make informed financial decisions effectively (Vlaev et al., 2007). This underscores the necessity for adequate financial literacy. Financial literacy plays a key role in adopting FinTech services like MoMo, crowd lending, digital wallets, blockchain and savings using apps and virtual currency such as cryptocurrencies (Meiryani et al., 2022). It equips individuals with the necessary knowledge and skills to understand and effectively utilize these innovative financial services. The different dimensions of financial literacy — knowledge, attitudes, and behaviours — are all critical in this context. The Mfoundi Division of the Centre region of Cameroon has witnessed a surge in the introduction of FinTech applications (Findex Database, 2017). Also, companies like Orange and MTN have seen consistent growth in the usage of their Mobile Money (MoMo) apps. That notwithstanding, the effects of financial literacy on the adoption of FinTech services is a pressing issue that warrants attention and research. Unfortunately, there exists scanty scientific evidence of the availability of literature on this subject in Cameroon specifically in Mfoundi Division. There is a need to develop and implement targeted financial literacy programs that are specifically designed to meet the needs of the inhabitants of Mfoundi Division. Despite the potential benefits of FinTech services, many individuals in Cameroon lack the financial literacy to effectively utilize these services. This study seeks to address the problem of low FinTech adoption in Mfoundi Division, Cameroon, by investigating the relationship between financial literacy and FinTech adoption.

Based on the aforementioned, this study is guided by the following specific objectives: to assess the effect of Financial knowledge on the adoption of FinTech services in Mfoundi Division of the Centre region of

Cameroon, to examine the extent to which Financial attitude/behaviour influences the adoption of FinTech services, to investigate the effect of financial skills on the adoption of FinTech services in the Mfoundi Division of the Centre region of Cameroon. The study is significant in the areas of policy formulation regarding financial literacy programs to facilitate the adoption of financial technology in Cameroon.

2. Literature Review

2.1 The Concept of Financial Literacy

Literature on financial literacy is still limited and still growing given that much interest in this topic has been developed using modern and sophisticated financial instruments which are constantly changing and with different attributes. In this section, we review the concept of financial literacy, by representing the different definition and benefits of financial literacy, measurement of financial literacy, conceptualization of Financial Literacy in Cameroon. It should be noted that financial literacy just like the concept of social capital and financial inclusion is a multidimensional and relative concept (Akyuwen & Waskito, 2019).

According to Organization for Economic Co-operation and Development (2017), financial literacy refers to the process by which financial consumers/investors improve their understanding of financial products, concepts and risks, and through education develop the skills, knowledge and behaviors to be more informed to make rational financial decisions. It is the ability to gain knowledge and effectively use various financial skills, including personal financial management, budgeting and investing. Financial literacy is the ability to become familiar and knowledgeable with financial markets products such that individuals can make informed decisions. According to Remund (2010) who develop a definition of financial literacy, “it is the ability to use knowledge and skills to manage financial resources effectively for a lifetime of financial wellbeing”, talk of the need for a more consistent conceptual definition and provided the following: “financial literacy is the measure of the degree one understand free financial and processes the ability to manage finance through short term decision making, and sound, long rang financial planning, while mindful of life event and chancing economic condition.”

According to Alessie (2011), financial literacy is “a combination of awareness, knowledge, skill, attitude and behaviour necessary to make sound financial decisions necessary to achieve individual financial well-being” (INFE 2011). Previous research work on FI and its relationship with economic activities agree with the fact that financial literacy is very necessary for any meaningful growth and development of a country. It helps people to understand the various financial products and services and their implications. It helps entrepreneurs to acquire knowledge that helps them select and use financial products that meet their financial requirements profitably.

Financial literacy has a close relationship with the field of personal finance. Garman and Forgue (2008) said that in personal finance, financial literacy refers to tools that are the basis for making someone smart about money. Financial literacy is often considered the same and can be exchanged with financial knowledge (Grohmann, et al., 2015; Titko, et al., 2015; Yuan & Yang, 2014; Rooij et al., 2011). However, the OECD (2012) defines broader financial literacy as a combination of awareness, knowledge, skills, attitudes, and behaviors needed to make financial decisions that ultimately achieve economic prosperity. There are several levels of financial literacy which include: well literate, sufficient literate, less literate, and not literate (Fukuyama, 2012).

Financial literacy is very important for entrepreneurs because financial literacy can empower entrepreneurs with funding sources and skills that will equip them to weigh their options in finding financing to optimize their financial structure. Financial literacy will also help institutions to avoid offering financing that indicates fraud. (OECD, 2016) Financial literacy is knowledge, skills and beliefs, which influence attitudes and behavior to enhance the quality of decision making and financial management in order to achieve prosperity. Financial literacy, just like financial inclusion, can mean different things to different people. Table 7 summarizes some definitions of financial literacy.

Table 1. Overview of the meaning of financial literacy

Author	**Year**	**Definition of financial literacy**
PISA, Organization for Economic Co-operation and Development	2017	[In young people] knowledge and understanding of financial concepts and the various risks associated with different sources of funding, and the techniques, skills and tools needed to apply such knowledge in order to make relevant financial decisions to improve the financial well-being of individuals and society, and to enable participation in economic activities.
Xiao	2016	Financial literacy is directly linked to how households make rational decisions to choose among different kinds of assets**.**
Lusardi and Mitchell	2014	Financial literacy is people’s ability to process economic information and

		knowledge needed to make informed decisions about financial planning, wealth accumulation, debt, and pensions. Financial literacy refers to the level of financial knowledge and the ability to apply the knowledge to improve financial status.
Delgadillo	2014	Financial literacy refers to as knowledge of financial concepts and how knowledge is used to make financial decisions, taking into account available resources and the unique situation for each individual or family.
OECD/INFE	2012	Financial literacy refers to as a combination of awareness, knowledge, skill, attitude and behavior necessary to make sound financial decisions and ultimately achieve individual financial well-being.
Gale and Levine	2010	Financial literacy refers to as the ability to make informed judgments and effective decisions regarding the use and management of money and wealth. Financially illiterate households make poor choices that affect not only the decision-makers themselves, but also their families and the public at large, making the improvement of financial literacy a first order concern for public policy.
Bernheim and Garrett	2003	Financial literacy is not an isolated category, but it is a specialized part of economic literacy which is related to the ability to ensure income, to move on the labor market, to make decisions about own payments and the ability to realize the possible consequences of their own decisions on the current and future income**.**
Noctor, Stoney and Stradling	1992	Financial literacy refers to an ability to make informed judgments and to take effective decisions regarding the use and management of money.

Source: Author's collection from Kempson et al. (2017), Xiao (2016) and Noctor et al. (1992).

2.1.1 Elements of Financial Literacy

It consists of what skills an individual needs to acquire in order to become financial literate just like generally someone has to be educated to become literate (OECD, 2017). To become financially literate, an individual must learn about budgeting, investment, financial planning, interest rates, price levels, hedging risk and diversification. This is to enable an individual gain knowledge about effective management of money and debt. In this regard, an individual has to acquire financial knowledge that is knowledge on how to operate and effectively use money in the economy. Financial skills which have to do with using the acquired financial knowledge in financial decisions (analyzes, evaluations, choices). Financial attitudes are the motivation and wiliness to use financial knowledge and skills in various economic situations. Lastly all these must produce a desired change in behavior. Financial education is an input of financial literacy. It helps to enhance financial skills and knowledge, ensuring rational, effective and efficient financial decisions in order to achieve desired financial objectives. It is a process that can begin at every stage of life and last a lifetime.

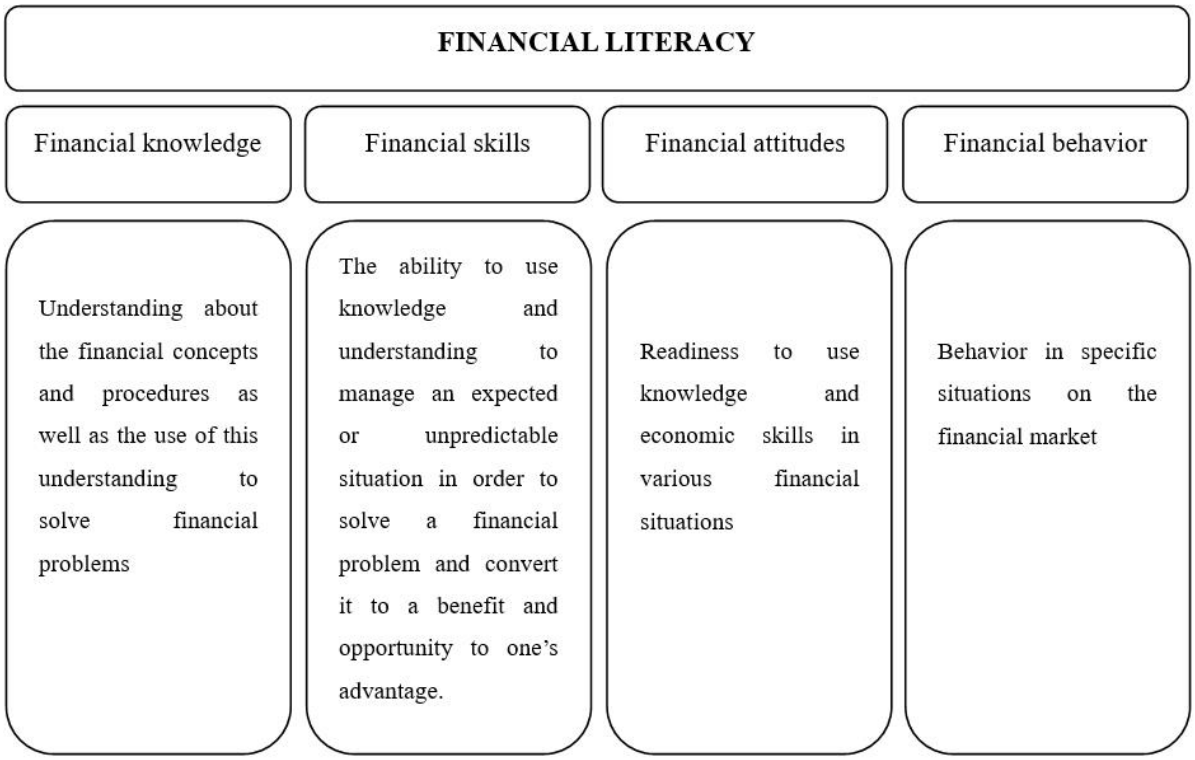

Figure 1. Elements of financial literacy

Source: Author (2024).

At the APEC Workshop held in September 2013, representatives of the APEC Economies and financial literacy experts reached consensus on a basic framework outlining the common themes on financial literacy (see Table 2).

Table 2. Financial literacy learning outcomes

Dimension	**Learning outcomes**
Knowledge	1. Saving and Spending – distinguishing needs from wants, knowing how savings can help in achieving an individual's goal, options for saving, barriers to saving and overcoming these barriers; practicing the habit of saving is also covered. 2. Planning and Budgeting – the skill of developing an action plan towards a goal or dream. 3. Informed decision-making – involves choosing among alternatives in order to achieve a given goal.
Skills	1. Earning money – covers various topics around making a livelihood, employment and entrepreneurship. 2. Managing money – ability to save and spend, practicing the habit of planning and budgeting and acting upon those plans. 3. Investing Money – exploring options of investing money. 4. Understanding cost of borrowing – knowing options for credit and understanding the consequences.
Attitude	1. Attaining a long-term focus or view into the future – reflecting/considering actions and having sensitivity to risk. 2. Taking into consideration the well-being of others – reflecting on the impact on others; having a sense of responsibility towards others; sense of empathy and compassion. 3. Developed sense of self-worth with an ongoing interest in continuous learning. 4. Passion for the projects that one is involved in, as well as passion towards one's own

	self-development.
Behavior	1. Enacting habits of saving, budgeting and prioritizing. 2. Exhibiting entrepreneurial behavior and work ethics – making responsible choices. 3. Exercising focus on making an effort with an emphasis on "grit". 4. Demonstrating charitable, empathetic and compassionate behavior.

Source: Adapted from APEC (2014).

Financial literacy, as defined by the OECD (Organisation for Economic Co-operation and Development, 2020), is a multifaceted concept that comprises awareness, knowledge, skills, attitudes, and behaviours that are essential for making wise financial decisions and achieving personal financial well-being. This concept aligns with Huston's (2010) view that financial literacy is an individual's ability to comprehend and apply financial information effectively. This includes the capacity for both short-term and long-term financial planning, taking into account life events and economic fluctuations.

Financial knowledge encompasses several aspects that vary by profession. Hasler and Lusardi (2017) opined that basic aspects such as simple and compound interest, risk diversification, risk and return, and inflation form the basis of financial knowledge that are necessary to handle money efficiently and make informed choices about finance. Sanderson (2015) posited that financial knowledge is necessary for managing financial resources. He said that these skills should be taught in schools to provide understanding to students and adolescents. Stolper and Walter (2017) emphasize the role of financial knowledge as a significant indicator of positive predictor of future financial results or outcomes. Hence, enhancing financial literacy is crucial for individuals to navigate the increasing complex financial landscape effectively. Braunstein & Welch (2002) in their study noted that modern financial services, bank deposits, loans and credit products as well as retirement products are essential tools to understand which only comes from financial knowledge. In addition, the correct usage of credit cards is a basic component of financial knowledge (Lyons et al., 2007). Elsewhere, the Jumstart Coalition for Personal Financial Literacy stated that K–12 students should acquire financial knowledge, learn financial responsibility and decision making. This included but not limited to decisions concerning income and occupation money management and planning, credit and loans, risk management, insurance, savings as well as investment. (Jumptart, 2007) Also, Hasan et al. (2023) further supported the relevance of Fintech services adoption as they found that traditional market returns during war are far lower compared to Fintech markets the case of Russia-Ukraine war than before the war. This further supports the need for Fintech adoption in Buea Silicon Community that has suffered from the Anglophone crisis for over 6 years.

2.2 Theoretical Literature Review

This research uses two theories that guided the study which are:

2.2.1 Theory of Reasoned Action (Fishbein & Ajzen, 1975)

The Theory of Reasoned Action (TRA) was first introduced by Fishbein in 1967. TRA asserts that the most important determinant of a person's behaviour is that person's behavioural intention. According to the theory, this behavioural intention is comprised of subjective norms and attitude associated with the behaviour. Fishbein & Ajzen (1975) and Ajzen & Fishbein (1980) extended TRA to suggest that a person's behaviour is determined by their intention to perform the behaviour and that; this intention is in turn a function of their attitude toward the behaviour and subjective norms. This theory aims to explain the relation between attitude and behaviour within human action.

2.2.2 Technology Acceptance Model (TAM) (Davis, 1986)

The TAM as proposed by Davis in 1986, is an adaptation of TRA. According to Lai (2017), TAM is tailored for modelling users' acceptance of information systems or technologies. To investigate King & He, (2006) & Weng et al., (2018), the relevance of TAM to this study is that it helps explain the effects of financial literacy on FinTech adoption. The model is a good foundation for creating a new web portal, especially in the B2B area of services industries.

2.3 Empirical Review and Hypotheses Development

2.3.1 The Effects of Financial Knowledge on FinTech Adoption

Literature on financial literacy through financial knowledge acquisition generally supports the notion that higher financial knowledge increases adoption of financial services (Hsaio & Tsai, 2018; Grohmann et al., 2018). This view manifests through studies that investigate several constructs or determinants of financial literacy and how they relate to individual financial behavior. Financial knowledge, for instance, influences personal attributes such

as attitudes, awareness, and cognitive abilities, which in turn affect how individuals' budget or manage their finances (Atkinson & Messy, 2011: 659). Similarly, enhanced financial knowledge is essential for behavioral change since increased financial literacy training leads to enhanced financial behavior and the greater use of financial services (Sayinzoga, et al., 2016). Conversely, the lack of financial awareness negatively impacts market participation (Guiso & Jappelli, 2005). This underpins the importance of financial literacy on financial inclusion.

Also, study by Lusardi & Mitchell (2011) found that people with a high level of financial knowledge are more likely to have access to and use FinTech services. Arun & Kamath (2015) observe that besides providing access, financial inclusion should address factors that enable individuals to better manage their financial resources and build financial capabilities. They recognize financial literacy and consumer education as critical drivers of the broader focus on financial exclusion and the meeting of needs of the currently unbanked (Arun & Kamath, 2015). Similarly, strategic approaches at the national level reflect the international policy interest in financial inclusion, financial education, financial consumer protection and evidence that financial literacy and financial inclusion are associated. Issues related to financial literacy and financial inclusion are top in the policy agenda of most countries and international organizations in the World today since the ultimate intention of financial education is for financial inclusion and to support behavior change (Atkinson & Messy, 2013).

World Bank (2008) stated that financial knowledge helps to improve efficiency and quality of financial services. This is supported by Lusardi (2009) and Greenspan (2002) who suggests that financial literacy helps in empowering and educating the poor so that they are knowledgeable and capable of evaluating different financial products and services to make informed financial decisions, so as to derive maximum utility. Therefore, the poor more than ever need a certain level of financial understanding to evaluate and compare financial products, such as bank accounts, saving products, credit and loan options and payment instruments. Scholars like Campbell (2006) and Grable & Joo (1998) argue that financial learning increases financial knowledge and affects financial decisions, choices, attitudes and behaviors of the poor. Indeed, OECD (2013a, 2013b) confirms that financial literacy facilitates access and encourages widening use of relevant financial products and services for the benefit of poor individuals.

Furthermore, Braunstein & Welch (2002) also observed that financial knowledge can offer a better understanding of mainstream financial services and encourages the unbanked to avoid non-standard services. Financial literacy facilitates decision making processes, which improve the savings rates, credit worthiness of potential borrowers, therefore resulting into improved access and use of financial services by the poor (World Bank, 2009; OECD, 2009). Therefore, financial knowledge facilitates effective product use by helping poor households to develop skills to compare and select the best financial products, which suits their needs hence leading to increased financial inclusion. However, Atkinson & Messy (2013) argue that lack of knowledge, awareness, confidence and certain attitudes and behaviors that inhibit use of, and trust in, formal financial products create barriers to access, by preventing poor individuals from making full use of existing products. Wilkins et al. (2022) stated that lack of financial knowledge by households contributed significantly to the 2008 financial crisis, this suggests that awareness and understanding of financial products will affect decisions about whether or not to use that product.

The results of Pulungan & Ndruru (2019) demonstrate how adoption of financial services is positively and significantly impacted by financial knowledge, with higher access and used of FinTech services being associated with higher financial knowledge levels. This is in line with research by Grohmann, Klühs, & Menkhoff, (2018), which states that there is a positive and significant effect between financial knowledge and financial inclusion. Thus, the following hypothesis was developed based on the explanation.

I. H1: Financial knowledge has a significant influence on the adoption of Fintech services in the Mfoundi Division of the Centre Region of Cameroon.

2.3.2 The Effect of Financial Behaviour and FinTech Adoption

This was further supported by Cupák et al. (2020) who stated that financial behaviour is positively influenced by the level of financial knowledge. The study examined consumer finance micro-data and evaluated the influence of self-assuredness in personal financial knowledge, confidence in the economy, and objective financial literacy on investments in risky financial assets like equity and bonds, across both broad and narrow margins. This was done while considering a wide range of covariates, including risk aversion. The findings revealed a positive link between financial literacy and investments in risky assets and debt securities. Additionally, confidence in one's financial skills increases the chances of holding risky assets and bonds. These relationships were quite strong for the broad margin, but they fell apart when considering the conditional proportion of financial wealth in risky assets among those who own them. The importance of financial literacy and confidence varied greatly with wealth distribution and across different socio-economic dimensions such as age, education, and race. Individuals with higher financial literacy may have lower fixed costs associated with acquiring and processing financial

information than those with lower financial literacy, which would make it easier for the former to participate in risky financial activities. Van Rooij et al. (2011) show that financial literacy has a positive correlation with investment in stocks. According to Morgan, Huang, and Trinh (2019), in addition to the traditional risks of using financial services, there are additional risks when one uses digital financial services. Such risks are more diverse and harder to spot than those associated with traditional financial products and services, including phishing, pharming, spyware, and SIM card swaps. Digital footprints may also be a source of risk. This suggests that higher financial literacy could also facilitate the use of Fintech products and services, although we are not aware of any studies on this topic.

Findings from Van Rooij et al. (2011) and Xiao and O'Neil (2018) uncovered the place of behavioural attitudes in shaping an individual's financial decisions. Concurrently, Hsiao and Tsai (2018) argued that the decision to partake in financially risky behaviours hinges predominantly on the perceived costs and benefits of information acquisition. Another study by Ernst & Young (2017) using FinTech Adoption Index found that nearly one-third of consumers in the 20 surveyed clients use at least two FinTech services, with 84% of those surveyed being aware of such services. They concluded that the FinTech innovators have already documented the potential of financial innovation, as evidenced by the rapid increase in FinTech start-ups how users adopt FinTech services. Hu et al. (2019) proposed an improved TAM that includes: user innovativeness, government support, brand image, and perceived risk as determinants of trust. They proved that users' trust in FinTech services has a very significant influence on attitudes toward adoption, while perceived ease of use and perceived risk do not affect it. Nangin et al. (2020) found that perceived ease of use had a positive effect on customer trust. This suggests an increase in the adoption of FinTech services. Based on the above literature, the study, therefore, hypothesizes that:

II. H2: Financial behaviour has a significant effect on the adoption of FinTech services in the Mfoundi Division of the Centre region of Cameroon.

2.3.3 The Effect of Financial Skills and FinTech Adoption

Most of studies highlight the significance of financial literacy on financial inclusion (Barro et al., 2022; Khan et al., 2022a; Khan et al., 2022b; Zhao et al., 2024). Tu et al. (2010) suggest that financial literacy is essential for financial resources of a firm. Bongomin et al. (2016) stated that financial literacy can aid in the improvement of the efficiency and quality of financial services. Financial inclusion facilitates access to and encourages the widespread use of financial products and services relevant to poor people's interests. Financial literacy can help the unbanked understand mainstream financial services and encourage them to avoid subpar services.

Financial literacy empowers and educates the public to gain a broader understanding of and evaluate various financial products and services to make informed financial decisions that maximize utility. Financial learning can improve financial knowledge while influencing financial decisions, choices, attitudes, and behavior (Bongomin et al., 2016). Another study states that the higher the knowledge about financial literacy, the higher the knowledge about financial inclusion about Fintech services so that people with high financial literacy can better access existing funding sources (Nuryani & Israfiani, 2021; Guan, 2020).

According to Rangarajan (2008), financial literacy has levels in the following order: First and foremost, be well-literate. This means that you should be confident in your understanding of financial service organizations and products, including their features, benefits, and hazards, as well as your rights and obligations. You should also be adept at using these goods and services. Second, have sufficient literacy and confidence in their knowledge of financial service providers, financial goods, and services, including their characteristics, advantages, and hazards, as well as their rights and responsibilities. Third, less literate, with a limited understanding of financial services, goods, and institutions. Fourth, lack of literacy, lack of understanding and trust in financial service providers, financial services and products, and a lack of proficiency in using financial services and products. According to the (OECD, 2018), indicators that can be used to measure financial literacy are, First, Financial Knowledge. Second, Financial Behavior, and Third, Financial skills. This indicator is used to measure the performance of financial literacy on financial inclusion of Fintech services. This suggests an increase in the adoption of FinTech services. Based on the above literature, the study, therefore, hypothesizes that:

III. H3: Financial skills have a significant effect on the adoption of FinTech services in the Mfoundi Division, Cameroon.

2.4 Conceptual Framework

The conceptual framework for this study is based on the literature review on the impact of financial literacy on Fintech adoption, as well as the Technology Acceptance Model (TAM) and the theory of Reasoned Action (TRA). The framework proposes that financial literacy, which is the independent variable break down to financial knowledge, financial behavior and financial skills influences FinTech services adoption. Indicators of

FinTech services adoption can be understood through various factors that influence user behavior and intention to adopt these services like intention, use, trust, affordability, access. The proposed conceptual framework is illustrated in the diagram below:

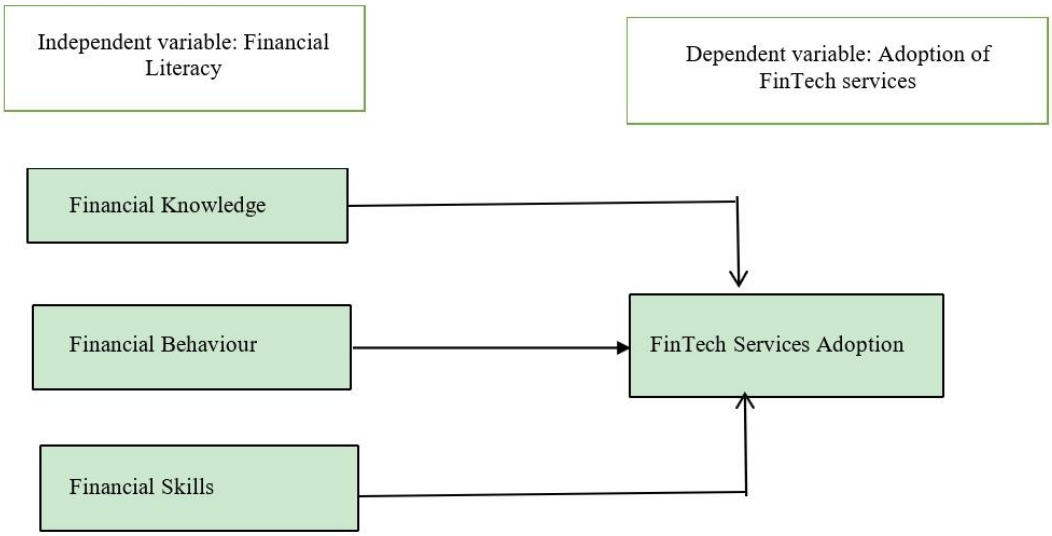

Figure 2. Conceptual Framework

Sources: Adopted from literature by authors (2025).

The theoretical framework and hypotheses suggest that financial literacy plays a critical role in promoting FinTech adoption among households Mfoundi Division. By understanding the factors that influence individuals' attitudes towards FinTech adoption, financial institutions and policymakers can develop effective strategies to promote financial literacy and FinTech adoption.

3. Methodology

This study adopted a quantitative approach, and data was collected using structured questionnaires and analysed using descriptive and inferential research techniques. The study used a 5- Likert-item structured questionnaire to collect data established from extant literature. The study employed the positivist research philosophy, which assumed that social phenomena can be studied objectively and that empirical methods can be used to generate valid and reliable data (Ryan, 2018). The population for this study was the general population of the Mfoundi Division and the study sampled men and women from the age of 20. The sample size for the study was 385 and the final analyzed data constituted 300 respondents after through data cleaning. A larger sample size generally leads to more precise estimates and narrower confidence intervals and given that exact population was unknown, a minimum acceptable sample size of 385 was deemed sufficient for the desired level of precision in in this study. This was done in cognizant that it may limit generalization to population that may be slightly different from the current. The sample technique employed was principally convenience and to an extent purpose as only those above 20 years were selected. The study participants were recruited from universities, workplaces, and public places. The use of convenient sampling was motivated by time and cost efficiency as well the most feasible method for quick data collection.

The instrument for data collection was a structured Likert scale questionnaire. The questionnaire consisted of three sections: participants' consent, demographics, and core variable sections. Data was collected using a self-administered questionnaire. The questionnaires were distributed to participants using trained data collectors who took 2 weeks to collect the data.

The data analysis for this study was conducted using Covariance-based Structural Equation Modeling (CB-SEM), a multivariate statistical technique that allows for the examination of relationships among multiple variables simultaneously. The model assessed the model Fit Indices. Model fit indices are used to assess how well the proposed model fits the observed data. The fit indices included were the Chi-square statistic, Comparative Fit Index (CFI), Tucker-Lewis Index (TLI), and Root Mean Square Error of Approximation (RMSEA). The Chi-square statistic tests the null hypothesis that the model fits the data perfectly.

3.1 Model Specification

This study adopts three endogenous variables namely: financial knowledge, financial behaviour and financial skills. K is Financial knowledge, P is Financial behaviour or attitude, FK is Financial Skills and AD is Fintech Adoption.

$AD = f(K, P, FK)$

$AD = \alpha + \beta 1K + \beta 2P + \beta 3FK + e$ ……...1

PATH 1 → $AD = \alpha + \beta 1K + e1$ …… 1.1

PATH 2 → $AD = P + \beta 2P + e2$ ……1.2

PATH 3 → $AD = FK + \beta 3FK + e3$ …… 1.3

Where: {AD → FINTECH ADOPTION} {K → FINANCIAL KNOWLEDGE} {P → FINANCIAL BEHAVIOUR} {FK → FINANCIAL SKILLS}, e1, e2, and e3 → error terms for paths (1), (2), and (3) while (β1, β2 and β_3 → path coefficients). The Apriori expectation → $\beta 1 > 0$; $\beta 2 > 0$; $\beta 3 > 0$ as shown below:

Table 3. Measurement of Variables and expected relationships

N	**Variables**	**Measurement**	**Expected impact**	**A priori**
	Dependent Variable: Fintech Adoption (AD)	Five Likert Scale points with coding grading from strongly agree to strongly disagree		
	Independent Variables			
1.	Financial Knowledge (K)	Five Likert Scale points with coding grading from strongly agree to strongly disagree	+	β>0
2.	Financial behaviour (P)	Five Likert Scale points with coding grading from strongly agree to strongly disagree	+	β>0
3.	Financial Skills (FK)	Five Likert Scale points with coding grading from strongly agree to strongly disagree	+	β>0

Source: Author (2025).

4. Results

The sample participants were fairly evenly distributed between males and females, with males making up 51.2% and females making up 48.8%. The age range of participants was: between 21-30 years 50.5%, 0-20 years 24.1%, 31-40 years 20.7%, and above 40 years old 4.7%. In terms of education level, most of the respondents have completed advanced level education 30.2% or hold a first degree 31.9%. A significant proportion indicated postgraduate studies, with 13.2% holding a master's degree and 2.7% holding a PhD.

Table 4. Demographic Distribution of Participants

Variable	**Category**	**Frequency**	**Per cent**
Gender	Male	151	51.2
	Female	144	48.8
Age	0-20 years	71	24.1
	21-30 years	149	50.5
	31-40 years	61	20.7
	41-50 years	13	4.4
	Above 50 years	1	0.3
Education Level	FSLC (First School Leaving Certificate)	23	7.8
	Ordinary levels (O-levels)	36	12.2

Advanced level (A-levels)	89	30.2
First Degree(B.Sc)	94	31.9
Master's degree (MSc, MA, MBA, etc.)	39	13.2
Doctor of Philosophy (PhD)	8	2.7
Others	6	2.0

Source: Field work (2025).

Table 4 revealed the participants' level of familiarity with different digital financial platforms. The majority of participants 271 (91.1%) reported being familiar with mobile payment apps such as mobile money and PayPal, indicating a high level of awareness and usage. Apart from this, most of the findings show a low level of awareness and familiarity with other FINTECH services. Online banking platforms showed a moderate level of familiarity, with 82 (27.8%) of participants indicating their familiarity. Peer-to-peer lending platforms and cryptocurrency exchanges were less familiar to the participants, with 23.7% and 28.8% reporting familiarity, respectively. The lowest level of familiarity was observed with crowdfunding platforms, with only 7.8% of participants indicating their familiarity.

Table 5. Familiarity with Digital Financial Platforms among Participants

Digital Financial Platform	**Familiarity**	**Frequency**	**Per cent**
Mobile payment Apps (e.g. mobile money, PayPal)	Familiar	271	91.1
	Not familiar	26	8.8
Online banking platforms	Familiar	82	27.8
	Not familiar	213	72.2
Peer-to-Peer lending platforms	Familiar	70	23.7
	Not familiar	225	76.3
Cryptocurrency exchange (e.g. Bitcoin, Ethereum)	Familiar	85	28.8
	Not familiar	210	71.2
Crowdfunding platforms	Familiar	23	7.8
	Not familiar	272	92.2

Source: Author (2025).

4.1 Usage of FinTech Services in the Mfoundi Division

Mobile payment apps are the most commonly used digital financial platform, with 47.8% of people using them daily and 31.5% using them weekly. On the contrary, online banking had only 4.1% of daily usage. Peer-to-peer lending platforms, cryptocurrency exchanges, and crowdfunding platforms have lower daily usage percentages, ranging from 3.7% to 1.7%. The findings indicated that online banking platforms and peer-to-peer lending platforms are used less frequently, with the majority of users using them rarely or never. Cryptocurrency exchanges and crowdfunding platforms are the least frequently used, with the majority of users never using them.

Table 6. Frequency of Usage of fintech services in Mfoundi Division

Digital Financial Platform	**Usage Frequency**	**Frequency**	**Per cent**
Mobile Payment Apps	Daily	141	47.8
	Weekly	93	31.5
	Monthly	22	7.5
	Rarely	30	10.2
	Never	9	3.1
Online Banking Platforms	Daily	12	4.1

	Weekly	30	10.2
	Monthly	54	18.3
	Rarely	77	26.1
	Never	122	41.4
Peer-to-Peer Lending Platforms	Daily	11	3.7
	Weekly	18	6.1
	Monthly	40	13.6
	Rarely	103	34.9
	Never	123	41.7
Cryptocurrency Exchange (e.g. Bitcoin, Ethereum)	Daily	8	2.7
	Weekly	13	4.4
	Monthly	34	11.5
	Rarely	79	26.8
	Never	161	54.6
Crowdfunding Platforms	Daily	5	1.7
Crowdfunding Platforms	Daily	5	1.7
	Weekly	12	4.1
	Monthly	26	8.8
	Rarely	60	25.4
	Never	177	60.0

Table 7. KMO and Bartlett's Test

KMO and Bartlett's Test	
Kaiser-Meyer-Olkin Measure of Sampling Adequacy	.935
Bartlett's Test of Sphericity Approx. Chi-Square	6453.705
Df	325
Sig.	.000

The study adopted the KMO and Bartlett's test results to ascertain the data suitability for factor analysis. Based on the analysis of data, it was observed that the Kaiser-Myer-Olkin Measure (KMO) of Sampling adequacy was 0.935 which is greater than 0.5 (KMO = 0.935>0.5) implying that the study meets the minimum requirement of sampling adequacy for EFA to be conducted. Equally, we observed that Bartlett's Test of Sphericity with Approx, Chi-Square (X^2) = 6453.705, and degree of freedom [df] = 325 revealed significant evidence that there exists at least 1 correlation in the data set Sig. [P_value = 0.000 < 0.01]. Based on these conditions, EFA was conducted.

The Principal Component Analysis (PCA) was employed varimax. Four new components were extracted with 73.782% of the total variance explained as shown in Table 5.

Table 8. Principal Component Analysis (PCA)

Total Variance Explained									
Component	Initial Eigenvalues			Extraction Sums of Squared Loadings			Rotation Sums of Squared Loadings		
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %
1	10.158	39.069	39.069	10.158	39.069	39.069	6.045	23.250	23.250
2	3.501	13.465	52.535	3.501	13.465	52.535	5.186	19.948	43.198

3	2.903	11.166	63.700	2.903	11.166	63.700	4.893	18.818	62.016
4	2.621	10.081	73.782	2.621	10.081	73.782	3.059	11.766	73.782
5	.845	3.250	77.031						
6	.583	2.241	79.273						
7	.476	1.830	81.103						
8	.453	1.742	82.845						
9	.405	1.558	84.403						
10	.362	1.393	85.796						
11	.340	1.309	87.106						
12	.336	1.294	88.400						
13	.296	1.139	89.539						
14	.293	1.126	90.665						
15	.280	1.077	91.742						
16	.267	1.025	92.768						
17	.253	.972	93.739						
18	.239	.918	94.658						
19	.226	.869	95.527						
20	.208	.798	96.325						
21	.178	.686	97.011						
22	.171	.658	97.668						
23	.164	.633	98.301						
24	.161	.618	98.919						
25	.141	.542	99.461						
26	.140	.539	100.000						
Extraction Method: Principal Component Analysis.									

The PCA extracted four components, which together explained approximately 73.782% % of the total variance and the variation was distributed across the different four dimensions. The highest variation was from component 1which accounted for 39.069% of the variance, the second for 13.465%, the third for 11.166%, and the fourth for 10.081%. The structure matrix revealed high loadings of the financial education variables on the first component of financial literacy (knowledge), followed by financial attitude/behaviour and skills in using financial technology tools. Thus, the framework suggests that each component represents a distinct construct within the data (see Table 9).

Table 9. Rotated Component Matrix

Rotated Component Matrix	Component			
	1	2	3	4
K4: My knowledge of Financial services is that they are fast	.851			
K5: I know financial services foster Innovation	.851			
K6: Financial knowledge Increase user experience	.846			
K3: I know Financial services are accessible	.845			
K7: Financial services are secured	.835			
K1: Financial services are convenient	.815			
K2: Financial services are cost-effective	.808			

K8: Financial services are reliable	.807			
AD6: The importance of fintech overwhelms the challenges for me		.877		
AD5: I am aware of fintech and its challenges		.860		
AD4: My knowledge of Fintech has helped me to avoid financial pitfalls		.859		
AD7: I can minimize the insecurity in fintech		.858		
AD2: I still prefer holding physical cash than momo		.855		
AD3: I am knowledgeable about fintech but I feel reluctant due risks		.843		
AD1: My fintech knowledge has encouraged me to use Momo		.545		
P4: Financial education made me feel positive about Fintech services			.855	
P2: I prefer to send money into my account through MoMo			.830	
P3: I detest fintech because of the potential			.802	
P7: Financial education positively influenced the way I considerations			.799	
P6: My behaviour towards financial technology has greatly improved			.772	
P1: I prefer holding money in my mobile telephone account than cash			.751	
P5: I prefer making payments through my MoMo account than cash			.707	
FK3: I own an account that keeps track of my finances				.886
FK2: Since I know how to do mobile banking, I sit at home for all the deals				.871
FK1: I desire to engage in fintech but I am limited by financial literacy				.856
FK4: I have subscribed to financial services that yield some income				.854
Extraction Method: Principal Component Analysis. Rotation Method: Varimax with Kaiser Normalization. a. Rotation converged in 6 iterations.				

From the findings, AD1 gave a low loading of .545 which is below the threshold (Radloff, 1977) but was maintained given that the entire factor had a high reliability and removing it did not significantly improve the model.

Table 10. Reliability and validity

	Cronbach's alpha	**Average variance extracted (AVE)**
Financial Adoption	0.923	0.735
Financial Behaviour	0.925	0.689
Financial Knowledge	0.954	0.755
Financial Skills	0.893	0.751

Source: SPSS generated.

The study examined the reliability using Cronbach's alpha and all of the Cronbach's alpha values were above 0.90, which shows the results are reliable. To assess convergent validity, Average variance extracted (AVE) was used. Each construct in this study measured a high AVE (AVE > 0.50) which indicates that the constructs are reliable.

To assess the discriminant validity, the study employed the criteria given by Fornell and Larcker (Farrell & Rudd, 2009). Table 8 below shows that the model in this study yielded reliability given that the square roots of AVE were all greater than the values of their corresponding correlation (Latif et al., 2023).

Table 11. The discriminant validity using Fornell and Larcker

	Financial	**Financial**	**Financial**	**Financial**

	Adoption	Behaviour	Knowledge	Skills
Financial Adoption	0.857			
Financial Behaviour/attitude	0.46	0.83		
Financial Knowledge	0.423	0.455	0.869	
Financial Skills	-0.047	-0.014	-0.14	0.866

Table 12. Confirmatory Factor Analysis (CFA)

Fit Indices	Standard for Good Fit	Calculated Value	Interpretation
CMIN/DF	< 3	1.618	Good fit
SRMR	Close to 0	0.037	Good fit
GFI	> 0.90	0.890	Acceptable fit
NFI	> 0.90	0.929	Good fit
IFI	> 0.90	0.972	Good fit
TLI	> 0.90	0.968	Good fit
CFI	> 0.90	0.971	Good fit
RMSEA	< 0.06 for a good fit	0.046	Good fit

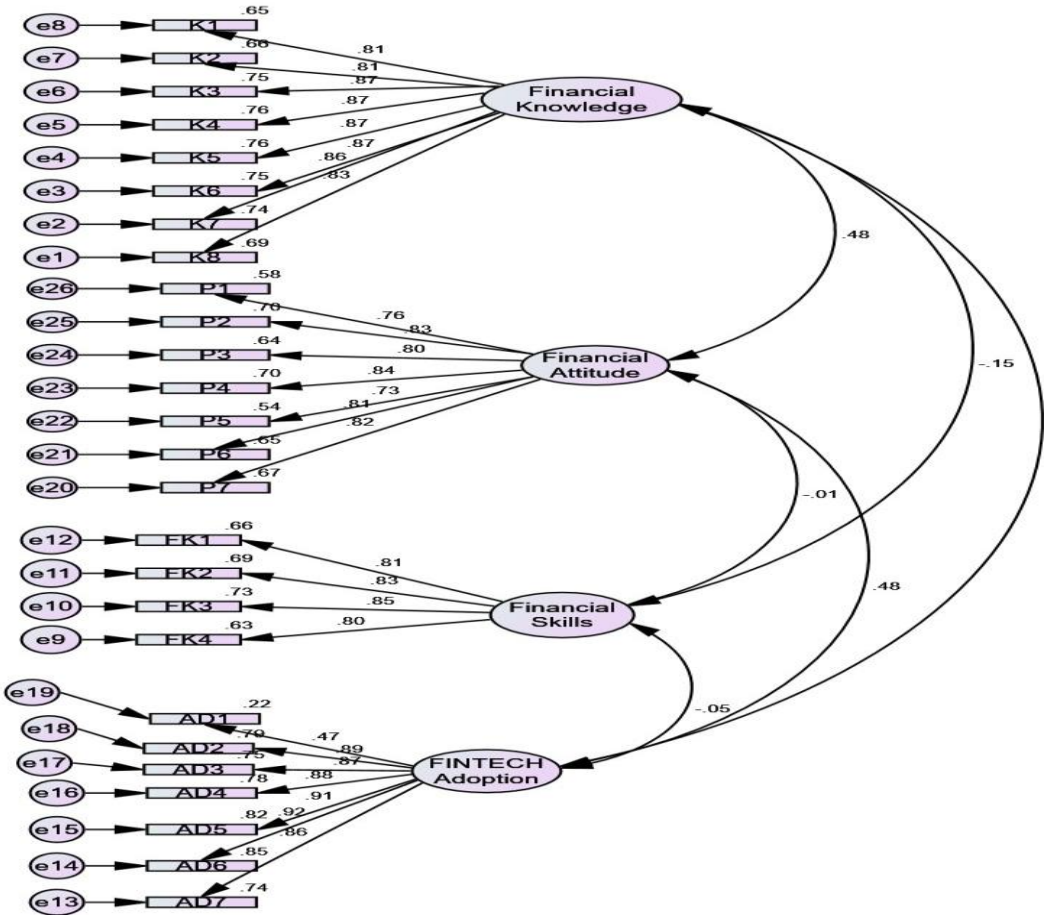

Figure 3. The Measurement Model

4.2 The Structural Model

The structural equation model was assessed to assess the relationships in the model and to verify the study hypotheses. First, the model was assessed for fitness using the different modification indices before hypotheses

verifications. The chi-square statistic was significant, $\chi^2(114) = 454.737$, $p<0.0001$, but the relative chi-square (CMIN/DF) was 1.690, revealing a good model. A good-fitting model is accepted if the value of the CMIN/df is <5, the goodness-of-fit (GFI) indices (Hair et al., 2010); the Tucker and Lewis (1973) index (TLI); the Confirmatory fit index (CFT) (Bentler, 1990h) is > 0.90 (Hair et al., 2010). For this study, the study found that an adequate-fitting model and all the indices recommended good results. For instance, the standardized root means square residual (SRMR) was 0.038 which is less than 0.05, and the root mean square error approximation (RMSEA) was 0.046 which is less than0.08 (Hair et al., 2010). Also, the goodness-of-fit (GFI)= .900, TLI = 0.965, GFI =.9000.890, CFI = 0.969.

Table 13. Assessment of Structural Model

Fit Indices	Standard for Good Fit	Calculated Value	Interpretation
CMIN/DF	< 3	1.690	Good fit
RMR	Close to 0	0.038	Good fit
GFI	> 0.90	0.890	Acceptable fit
NFI	> 0.90	0.929	Good fit
IFI	> 0.90	0.969	Good fit
TLI	> 0.90	0.965	Good fit
CFI	> 0.90	0.969	Good fit
RMSEA	< 0.06 for a good fit	0.046	Good fit

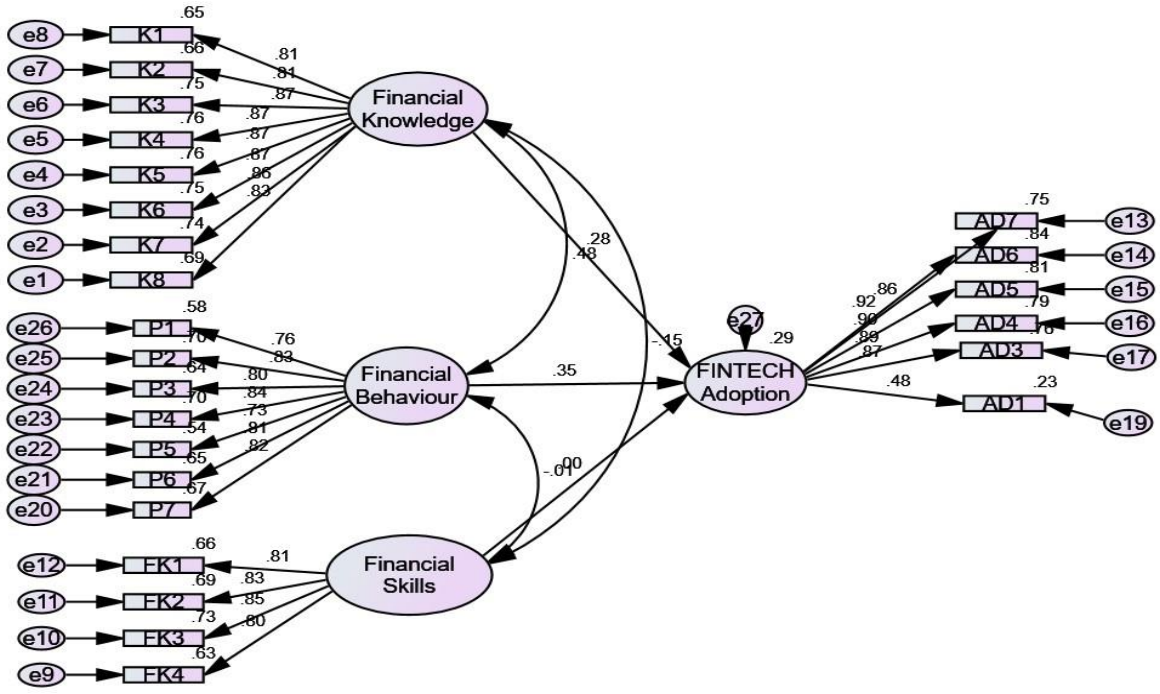

Figure 4. Confirmatory Factor Analysis

The combined effect was assessed for the variables using the squared multiple correlation. The study found a combined effect of .294, which implies that 29.4% variation in Fintech service adoption in Mfoundi Division is accounted for by the level of financial literacy measured using Financial Knowledge, Attitude and Financial skills.

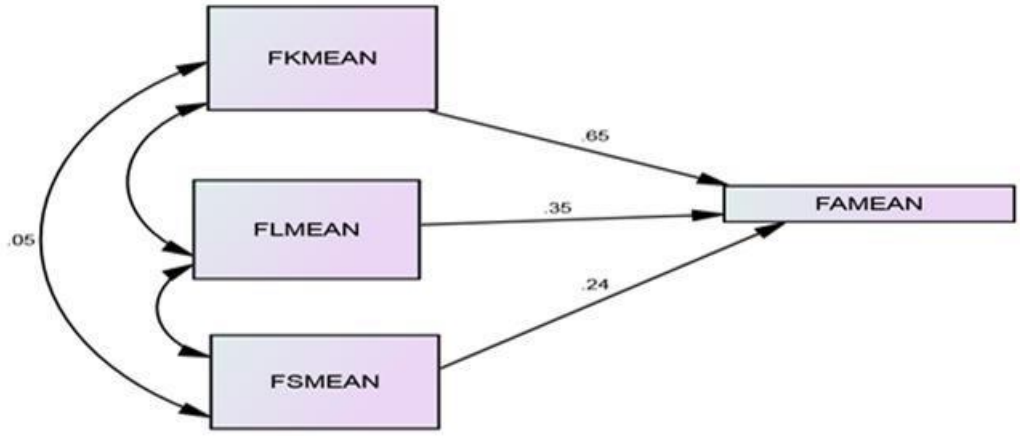

Figure 5. Structural Equation Model

CMIN/DF = 1.690; GFI = 0.890; IFI = 0.969; CFI = 0.969; RMSEA = 0.046; RMR = 0.038.

Table 14. Relationships between independent and FinTech service adoption

	Unstandardized estimates	Standardized estimates	T	P-Value	Decision
Financial knowledge has a significant influence on Fintech services adoption	.330	.283	4.487	***	Reject the null hypothesis
Financial behaviour has a significant effect on Fintech services adoption and usage in Buea	.378	.346	5.391	***	Reject the null hypothesis
Financial skills have a significant effect on Fintech services adoption and usage in Mfoundi Division	-.004	-.003	-.056	.955	Refuse to reject the null hypothesis

In this study, the effect of financial education (Financial Knowledge, Financial Behaviour, Financial skills) on the fintech service adoption was assessed among inhabitants of Mfoundi Division. The results in Table 11 revealed that financial knowledge has a positive and significant effect on the level of adoption of fintech services in Mfoundi Division (β =.330, t = 4.487, p <0.001). The findings suggested that convenience, cost-effectiveness, easy accessibility, and security among others significantly impact the level of adoption of fintech services.

Also, the study assessed the influence of financial perceived attitudes towards fintech services and the study uncovered that there is a positive and significant influence (b =.378, t = 5.391, p< 0.001). The findings showed that a more positive attitude towards fintech services, that is the perceived belief that fintech offers innovation solutions, better to send more to the bank via fintech solutions like the use of Mobile Money, ease of tracking tractions and desire to yield income was positively related with adoption of services. The last dimension was the effect of fintech skills (usage) on adoption. The findings did not find enough evidence that financial skills significantly impact the fintech service adoption rate (b =-.004, t = -.045, p =.955).

5. Conclusion

This study aimed to investigate the effect of financial literacy on the adoption of Fintech services among residents of Mfoundi Division. Surveys were distributed to 300 participants, revealing a notably low level of fintech services adoption, with a predominant reliance on mobile money payments and transfers. Online banking platforms and peer-to-peer lending platforms were found to be less frequently utilized, while cryptocurrency exchanges and crowdfunding platforms were the least commonly used, with a majority of users reporting non-usage.

The study concluded that financial literacy, particularly financial knowledge and financial behaviour, significantly influences Fintech services adoption in Mfoundi Division. Notably, financial behaviour emerged as

the most impactful factor. The results suggest that individuals with elevated levels of financial knowledge are more inclined to adopt Fintech services. Moreover, a sound understanding of the financial benefits of Fintech, including convenience, secure transactions, cost-effectiveness, and easy accessibility, positively impacts adoption.

Furthermore, the research revealed that individuals with a positive attitude towards Fintech services, perceiving them as innovative solutions, are more likely to adopt them. This favourable attitude may stem from the ease of sending and tracking transactions, as well as the aspiration to generate income through Fintech solutions such as mobile money.

However, the study did not uncover sufficient evidence to support the hypothesis that financial skills significantly impact the adoption of Fintech services. This suggests that individuals' proficiency in using Fintech services, or their level of financial skills, does not exert a significant influence on their adoption rate.

This study recommends that financial literacy policy should be instituted and encouraged by the government of Cameroon to help improve and consolidate Fintech adoption not only in Mfoundi Division but in the whole country. We also recommend the promotion of positive perceptions and beliefs about Fintech, as well as highlighting its benefits.

This study provides evidence that financial literacy is a critical factor influencing the adoption of FinTech services in Mfoundi Division, Cameroon. Policymakers and FinTech providers should prioritize financial education and literacy programs to enhance the adoption of FinTech services (Lusardi & Mitchell, 2014). Additionally, FinTech providers should design user-friendly and accessible services that cater to the needs of individuals with varying levels of financial literacy. This study has implications on financial industry and the consumers in that it has revealed the need for increased financial literacy to help improve competition, financial inclusion, and the provision of a wider range of products and services to the consumers.

6. Recommendations

Based on the study, findings that financial literacy, particularly financial knowledge and financial behaviour, significantly affect Fintech services adoption in Mfoundi Division. We therefore recommend the following:

1) Policymakers should integrate financial literacy into school curricula to enhance financial literacy among young people (Lusardi & Mitchell, 2014).

2) FinTech providers should offer financial literacy programs and workshops to educate users about FinTech services (Kim et al., 2018).

3) FinTech services should be designed to be user-friendly and accessible to individuals with varying levels of financial literacy (Gomber et al., 2018).

7. Limitations

This study has some limitations. The sample size was limited to 300 respondents, and the study focused on Mfoundi Division, Cameroon. Future studies should consider larger sample sizes and broader geographic areas.

8. Future Research Directions

However, the study was limited to the Mfoundi Division of the Centre region of Cameroon. A more extensive study of the effects of financial literacy on the adoption of financial technology services in Cameroon as a whole is necessary. Future studies should investigate the effect of financial literacy on FinTech adoption in other regions of Cameroon and explore the role of other factors influencing FinTech adoption, such as digital literacy and trust in FinTech services (Kim et al., 2018).

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Author Contributions

Ayuk Takemeyang conceived the topic and did the draft of the Manuscript, Henry Jong Ketuma and Tambi Andison Akpor reviewed the manuscript. Henry Jong Ketuma further reviewed and revised the Manuscript, enhancing its content, clarity and accuracy met the highest standards.

Declaration of Funding

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Data Availability

The datasets generated during and/or analyzed during the current study are available from the corresponding

author on reasonable request.

Declarations Competing Interests

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From Policy System to Legal System: Theoretical Foundations and Practical Logic of the Path to the Rule of Law in China's State-Owned Economy

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Abstract

The crux of the endeavor to construct a high-level socialist market economy is predicated on the promotion of the transformation of state-owned asset and state-owned enterprise reform from policy-driven to law-based. Since 2012, state-owned enterprise reform has made substantial progress on the basis of the "1+N" policy system. However, its institutional achievements still lack stable legal support. This article explores the necessity and feasible pathways for establishing a legal system for the state-owned economy from the perspectives of theoretical foundations and practical logic. The present stage, as indicated, should prioritize the institutionalization, standardization, and legalization of reform experiences, with the gradual transition from a policy system to a legal system. In this process, economic law should play its core role in coordinating the relationship between the state and the market, undertaking the dual tasks of institutional interpretation and theoretical provision. The article systematically addresses key institutional issues, including the classification of SOE functions, the tiered supervision of state-owned assets, and the orientation of competition policy. It seeks to provide theoretical support and institutional solutions for the construction of a legal system for the state-owned economy.

Keywords: state-owned enterprise reform, economic rule of law, policy system, legal system, state-owned economic system, system construction, classification and supervision

1. Introduction: A Path to Institutional Advancement in the Reform of State-Owned Enterprises Under the Rule of Law

The "Deepening the reform of State-owned enterprises" initiative constitutes a pivotal component in the promotion of high-quality development. This statement underscores the pivotal role of the reform of state-owned enterprises in the process of Chinese-style modernization in the current era. It also signifies a shift in the reform's trajectory, progressing from the phase of policy promotion to that of institutional construction and rule of law protection. Since the commencement of the socialist construction stage in China, state-owned enterprises and the state-owned economy have consistently assumed pivotal political and economic functions[1]. Consequently, the reform process of these entities has evolved into a significant indicator of the modernisation level of national governance. The establishment of a high-level socialist market economic system necessitates the deepening of the reform of state-owned enterprises as a pivotal element to promote the systematic reconstruction of the institutional system. Since the advent of the new era, state-owned enterprise reform has

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achieved phased results, initially forming a "1+N" policy system (see Table 1) with the "Guiding Opinions of the Central Committee of the Communist Party of China and the State Council on Deepening State-owned Enterprise Reform" as the general guideline, supplemented by multiple supporting policies. This system encompasses numerous domains, including classification reform, the establishment of contemporary enterprise systems, the enhancement of the state-owned asset management system, the cultivation of a mixed-ownership economy, the mitigation and regulation of asset loss, and the refinement of party leadership mechanisms. It has instituted a comprehensive and extensive reform policy framework. The primary objective at present is to facilitate the transformation of this system into institutionalized and legalized reforms, thereby providing a stable legal foundation for the achievements of reform. The series of pivotal declarations issued by China's foremost leaders concerning state-owned asset and SOE reform are indicative of their methodical approach to the institutional operations and governance frameworks within the state-owned economic sector. During their tenure in Fujian and Zhejiang provinces, they proposed significant concepts, including "fully leveraging the leading role of the state-owned economy", "cultivating large enterprises and groups with international competitiveness", and "converting the Party's political advantages into the core competitiveness of state-owned enterprises". These concepts permeate the entirety of the governance process and have been consistently promoted in the top-level design and practice since the new era, reflecting the continuity and consistency of the strategic goals and path choices for state-owned economic reform[1]. This has established a robust ideological foundation for the development of a rule of law system within the state-owned economy. The establishment of a high-level socialist market economic system is not only contingent on the optimisation and adjustment of the policy level, but also requires the institutionalisation and stabilisation of the rule of law system. The practical experience of the "1+N" policy system of state-owned enterprise reform has provided a practical foundation and institutional preparation for the establishment of a unified, coordinated and systematic legal system for the state-owned economy. The transformation of the reform policy into a normative system is not only an inherent requirement of the modernisation of the national governance system and governance capacity, but also the theoretical starting point and research focus of promoting legal research, especially economic law, on the issue of state-owned enterprises. The state-owned economy is a significant component of the socialist market economy, and its reform and development require a robust institutional response and the safeguarding of the rule of law. The institutional experience accumulated in the current policy-led reform path must be confirmed and transformed through the form of legal norms, so as to realise the consolidation and sublimation of the rule of law on the reform results. This process necessitates the systematic construction of the legal system of state-owned economy, whilst simultaneously emphasising the significance and urgency of the study of state-owned economic law as the core object of state-owned enterprises. This is due to the fact that state-owned enterprises represent the internal logical growth point of economic jurisprudence.

Table 1. "1+N" policy system for State-owned enterprise reforms

1	**Guiding Opinions of the Central Committee of the Communist Party of China and the State Council on Deepening the Reform of State-owned Enterprises (August 24, 2015)**	
N	**Classifying and promoting the reform of state-owned enterprises**	1. Guiding Opinions on Functional Definition and Classification of State-Owned Enterprises (SASDF Research [2015] No. 170) 2. Implementation Plan on Improving the Functional Classification Assessment of Central Enterprises (SASDF Comprehensive [2016] No. 252) 3. Guiding Opinions of the General Office of the State Council on Promoting the Structural Adjustment and Reorganization of Central Enterprises (Guo Ban Fa [2016] No. 56)
	Improvement of the modern enterprise system	1. Notice on Doing a Good Job in Equity and Dividend Incentives for Centralized Science and Technology-based Enterprises (SASDA Allocation [2016] No. 274) 2. Guiding Opinions of the General Office of the State Council on Further Improving the Corporate Governance Structure of State-owned Enterprises (Guo Ban Fa [2017] No. 36) 3. Opinions of the State Council on Reforming the Wage Determination Mechanism of State-owned Enterprises (Guo Fa [2018] No. 16)

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		4. Operational Guidelines for Consideration of State-Owned Equity Directors' Motions in Financial Institutions (Caijing [2019] No. 6) 5. Circular on the Issuance of Guidelines for the Implementation of Equity Incentives for Listed Companies Controlled by Central Enterprises (SASAC Kaoban [2020] No. 178) 6. Circular on the Issuance of the Working Rules for Reporting Major Business Risk Events of Central Enterprises (SASDF Supervision Regulation [2021] No. 103) 7. Circular on Strengthening the Management of Goodwill of Central Enterprises (No. 41 of SASDF Caixin Regulation [2022]), etc.
	Improvement of the state-owned assets management system	1. Several Opinions of the State Council on Reforming and Improving the Management System of State-owned Assets (Guo Fa [2015] No. 63) 2. State Council State-owned Assets Supervision and Administration Commission to promote the implementation of the rule of law institutions (SASAC Regulations [2016] No. 134) 3. Measures for Financial Management of Overseas Investment by State-owned Enterprises (Caixin [2017] No. 24) 4. Interim Provisions on Centralized Procurement Management for State-owned Financial Enterprises (Caijin [2018] No. 9) 5. Circular of the State Council on the issuance of a plan for reforming the system for authorizing the operation of state-owned capital (Guo Fa [2019] No. 9) 6. Circular on the Issuance of Interim Provisions on the Registration of State-owned Interests in Limited Partnerships (SASDF Property Rights Regulation [2020] No. 2) 7. Circular on the Issuance of the Working Rules for Interviews on State-owned Assets Supervision and Responsibility (SASDF Supervision and Responsibility Regulation [2021] No. 14), etc.
	Development of a mixed ownership economy	1. Opinions of the State Council on the Development of Mixed Ownership Economy by State-owned Enterprises (Guo Fa [2015] No. 54) 2. Opinions on the Pilot Employee Stock Ownership of State-Held Mixed Ownership Enterprises (SASDF Reform [2016] No. 133) 3. Opinions on Several Policies on Deepening the Pilot Reform of Mixed Ownership (NDRC [2017] No. 2057) 4. Circular of the General Office of the National Development and Reform Commission on the Issuance of the Compendium of Tax Policy Documents Related to Mixed Ownership Reform of State-Owned Enterprises (NDRC ETS [2018] No. 947) 5. Circular on Matters Relating to Strengthening Management of Equity Participation by Central Enterprises (SASDF Reform Regulation [2019] No. 126) 6. Circular on the Issuance of Interim Measures for the Administration of Equity Participation by State-Owned Enterprises (No. 41 of the State-owned Assets Development and Reform Regulation [2023]), etc.
	Strengthening supervision to prevent the loss of State-owned assets	1. Opinions of the General Office of the State Council on Strengthening and Improving the Supervision of State-owned Assets in Enterprises to Prevent the Loss of State-owned Assets (Guo Ban Fa [2015] No. 79) 2. Notice on Matters Concerning the Establishment of a Public Announcement System for Asset Appraisal Projects of Central Enterprises (SASDF Property Rights [2016] No. 41) 3. Guiding Opinions of the General Office of the Central Committee of the Communist Party of China and the General Office of the State Council on

		Strengthening the Asset-Liability Constraints of State-Owned Enterprises (September 13, 2018) 4. Notice on Further Clarifying Matters Relating to the Management of State-owned Equity in Unlisted Joint-Stock Companies (SASAC Property Rights [2018] No. 760) 5. Circular on Issues Related to Regulating the Investment and Financing Behavior of Financial Enterprises Toward Local Governments and State-owned Enterprises (Caijin [2018] No. 23) 6. Implementation Opinions on Strengthening the Construction and Supervision of the Internal Control System of Central Enterprises (SASDF Supervision Regulation [2019] No. 101) 7. Notice on Matters Relating to Strengthening the Reporting of Major Operational Risk Events (SASFAA Supervision [2020] No. 17) 8. Circular on the Issuance of the Guiding Opinions on Strengthening Debt Risk Management and Control of Local State-owned Enterprises (SASDF Caixin Regulation [2021] No. 18) 9. Notice on Doing a Good Job of Holding Central Enterprises Accountable for Violations of Business and Investment Responsibilities in 2022 (SASFAA Development and Supervision Responsibility [2022] No. 7), etc.
	Strengthening and improving the Party's leadership of State-owned enterprises	1. General Office of the Central Committee of the Communist Party of China Issues Opinions on Adhering to Party Leadership and Strengthening Party Construction in Deepening Reform of State-owned Enterprises (2015) 2. The Discipline Inspection Group of the Central Commission for Discipline Inspection of the State-owned Assets Supervision and Administration Commission of the People's Republic of China Issues Guiding Opinions on Central Enterprises' Institutional Mechanisms for Building "Cannot Corrupt" (2017) 3. Regulations of the Communist Party of China on the Work of Grassroots Organizations of State-owned Enterprises (for Trial Implementation) (2019)
	Creating favorable environmental conditions for the reform of State-owned enterprises	1. SASAC Notice on Implementing the Guiding Opinions of the Central Committee of the Communist Party of China and the State Council on Deepening the Reform of State-owned Enterprises (SASAC Research [2015] No. 112) 2. Circular of the State Council on the Issuance of the Work Program for Accelerating the Divestment of Social Functions of State-owned Enterprises and Resolving Historical Problems (Guo Fa [2016] No. 19) 3. Notice on Further Improving the Work of Divesting State-owned Enterprises of Their Social Functions and Resolving Historical Problems (SASFAA Reform [2017] No. 20) 4. Guiding Opinions on the Separation and Transfer of Functions Related to Municipal and Community Management from State-owned Enterprises, issued by the State-owned Assets Supervision and Administration Commission of the State Council, the Ministry of Civil Affairs, the Ministry of Finance, and the Ministry of Housing and Urban-Rural Development (Guo Zi Fa Gai Zhi [2017] No. 85), etc.

2. Institutional Value of the Rule of Law in the Reform of State-Owned Enterprises

In contemporary legal research, there is a divergence of opinions regarding the appropriate approach to addressing "hot issues of society". It has been posited by certain scholars that the rapid evolution of prominent issues and the prevailing utilitarian orientation may exert an influence on the depth of theoretical research and academic norms. This, in turn, may have ramifications for the sustainable development of the discipline[1]. From

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this perspective, it is reasonable to emphasize academic self-discipline and adherence to long-term values. As scholars have noted, the orientation of "theory must serve practice" has been dominant in the current Chinese academic environment. This orientation promotes the docking of research and real problems. However, it also brings the risk of academic quality slippage. Examples of such slippage include weakening of theoretical reflection ability and shortening of research cycle. The expeditious approach to significant issues frequently employed in the domain of "fast food" research does not always facilitate the theoretical development and methodological self-awareness that are fundamental to legal research[1].

However, within the broader framework of comprehensively deepening reform, the economic system reform is in critical need of the support of rule of law thinking. This, in turn, is contingent upon a meticulous response to and systematic analysis of real economic problems. The reform of state-owned enterprises, as a core area of economic structural transformation, should become an important direction of economic law research. The objective of economic law is to regulate the relationship between public power and the market. Its methodology and value orientation determine that it has a natural fit and theoretical priority for the governance of state-owned economies. Jurists who engage in the contemplation of the development of legal theory may find this perspective to be unorthodox, and the author has no intention of engaging in a discourse on this matter. However, the author does possess a set of personal views on the subject. The concept of a "social hotspot" encompasses a social reality, not in spite of its status as a hotspot, but rather because of it. Social phenomena and law serve as the foundation and conduit for understanding the relationship between the two. A pragmatic approach to social hotspots is essential, necessitating an in-depth examination of jurisprudence to illuminate the dynamism of society and its evolution. The study of jurisprudence is thus indispensable in addressing the evolving demands of societal development. A thorough examination of social hotspots is not synonymous with undue emphasis on the resolution of authentic problems. An approach that is superficial will inevitably fall short, yielding unsatisfactory outcomes. It is not inconceivable that certain scholars may engage in research under the guise of social hotspots, with the objective of garnering public attention and achieving their own objectives. However, the number of individuals susceptible to such manipulation and the longevity of this practice are open to question.

While legal studies and legal research possess distinct foci, the synergistic integration of these two disciplines is instrumental in catalyzing knowledge innovation and fostering institutional enhancement. Historically, legal research has centered on logical systems and conceptual deduction, with less emphasis on observation and generalization of specific legal practices and mechanisms. This approach has led to theoretical results that demonstrate explanatory power and operational insufficiency within the legal system. Conversely, the emphasis in legal practice research on operational and reality-oriented aspects, while frequently overlooking the conceptual framework of cleanup and the establishment of normative rationales, hinders the long-term development of system design. Therefore, there is an urgent need to promote the positive interaction between theoretical and practical research to achieve the dual enhancement of legal knowledge. This enhancement must include a response to reality as well as the cultivation of norms[2]. In reality, the practice of law is limited in scope and cannot be considered perfect. It is inevitable that there will be some issues that have not yet achieved consensus within the domain of legal theory. It is crucial to acknowledge these studies, as the theoretical framework of law has yet to attain a higher academic standard and enduring influence. It is evident that these studies are progressing in a favorable direction. The evolution of any field is a continuous process, and it cannot be used as a foundation for the development of legal theory. It is imperative to acknowledge that all research is subject to inherent imperfections and uncertainties, which can hinder the ability to fully recognize its significance.

The foundational purpose of jurisprudence is not to reach a state of theoretical self-consistency, but rather to address and resolve normative challenges in the present moment. According to Larenz's conceptualization of "jurisprudence as a task discipline", the establishment of prevailing legal norms does not depend exclusively on a compilation of laws and regulations. Instead, it is imperative to emphasize the continuous development and enhancement of these norms through diverse institutional endeavors, including judicial decisions, administrative conduct, and contractual practices. The logic of law generation dictates that jurisprudence must prioritize the resolution of social problems[3].

Savini's work elucidates the foundational orientation of jurisprudence as an applied science, emphasizing that legal systems are not arbitrary creations, but rather, they are standardized on the basis of existing social customs and prevailing beliefs. This standardization is achieved through the systematic arrangement and theoretical refinement of jurisprudence. Therefore, he proposed the utilization of historical jurisprudence as a

[1] Liu, L., (2008). Reflections on China's jurisprudence citation research. *Studies In Law and Business*, (2).

[2] Liu, X., (2011). *How legal knowledge is practiced* (pp. 199–200). Beijing: Peking University Press.

[3] Larenz, K., (2003). *Methodology of law* (Chen Aie, Trans., p. 112). Beijing: Commercial Press. (Original work published in German).

methodological paradigm, employing Roman law as a model. This approach advocated for the historical precipitation and system construction to address the necessity for order in legal practice[1]. This approach underscores the notion that the development of legal frameworks is inextricably linked to the prevailing institutional logic and social structure, thereby offering a valuable reference point for the contemporary enhancement of China's legal framework. Puchta's approach to legal theory is heavily influenced by the ideas of Savigny. Puchta's system of legal norms is self-contained and hierarchical, and he employs formal logical deduction to clarify the internal structural relationships between different legal concepts[2]. This approach enhances the systematicity and objectivity of jurisprudence; however, its capacity to address legal realities remains limited. As a normative system that regulates social relations, the research method of law should not be confined to abstract logic, but should take into account empirical experience and social goals, and emphasize the practical character of law. Consequently, when employing the method of logical analysis in contemporary legal research, the tendency to mechanize and instrumentalize it should be met with caution. The intricacies and evolving nature of social practices present a significant challenge in terms of their effective governance. The application of formal logic alone is insufficient to address these challenges. In addition to normative logic, empirical methods and institutional observation should be incorporated to facilitate the integration of logical thinking and practical experience. This integration is essential for achieving the unity of functionality and explanatory power in jurisprudence[3]. It is imperative to acknowledge that the generation of problem awareness merely signifies the initial phase of research, not the research itself. The foundation of legal research must be anchored in pragmatic experience, yet it must transcend mere superficial appearances and attain a theoretical zenith, one that encompasses the refinement and systematic interpretation of legal issues. Practice provides material, and theory provides meaning; therefore, the two are complementary and indispensable. A jurisprudence that is genuinely effective must address actual problems while also endeavoring to construct a theoretical system that possesses normative explanatory power and institutional tension. The foundational mission of jurisprudence is to address legal issues that impede social progress and subsequently enhance the existing system and reorganize established structures.

In the contemporary context of China's social transformation and the active legislative and judicial practices that have been implemented, economic law must assume the initiative to address these practical issues and transform the institutional tension caused by reform into an opportunity for theoretical innovation. A theoretical framework, divorced from practical application, is insufficient to address the intricacies inherent in authentic governance. This theoretical framework may, consequently, lead to a misinterpretation of academic utilitarianism if it fails to address real-world concerns and lacks a foundation in empirical research. It is imperative to maintain a balanced equilibrium between these two factors. The institutional practice of socialism with Chinese characteristics disrupts the prevailing paradigm of the Western modernization trajectory, offering a distinct Chinese approach characterized by institutional competition and legal diversity. As a pivotal sectoral legislation that responds to national governance and regulates economic order, the evolution of economic law has invariably been accompanied by the exploration of the trajectory of Chinese-style modernization. In this process, the theory of economic law has gradually formed a research paradigm characterized by problem orientation, local resources, and institutional innovation, reflecting distinctive Chinese characteristics and development veins. The social life practice and reform and development process of 1.4 billion people constitutes the most profound practical foundation and experience soil for Chinese legal research. This is particularly evident in the field of economic law, where research must be situated within the historical context of China's economic structural transformation and social governance change. The investigation of economic law has evolved to encompass a more profound examination of domestic resources and a response to Chinese challenges. The continuous response to these problems is instrumental in facilitating the advancement and maturation of China's economic law theory.

3. The Practical Basis for the Construction of a Rule of Law System for the State-Owned Economy

SOEs are a specific institutional arrangement created by the state. They have demonstrated unique economic functions and institutional status in different social system contexts. This is particularly evident in the domains of macro-control, industrial guidance, and public services, where SOEs have been recognized as a pivotal component of the national governance system. These entities fulfill an indispensable role in ensuring national economic security and fostering economic development[4]. Within the context of China's economic system, which

[1] Yang, R. S., (1987). *Methodology of interpretation of law* (p. 5). Xinbei: Ruiyuan Printing Co.

[2] Bikai, J., (1975). *Theory and practice of jurisprudence* (p. 17). Tokyo: Gakuyo Shobo.

[3] Yang, R., (2013). *Methodology of jurisprudence* (2nd ed., pp. 55–56). Beijing: China University of Political Science and Law Press.

[4] Jiang, L., (2001). Classification and supervision of state-owned enterprises: An institutional arrangement to compensate for the lack of supervision of state-owned property rights. *Contemporary Finance & Economics*, (3).

is characterized by a predominance of public ownership, SOEs assume a particularly pronounced institutional significance and political function. In light of the escalating global trend of protectionism, mounting geopolitical tensions, and the profound ramifications of the novel corona virus, the global economy is undergoing a period of substantial adjustment. This period is accompanied by a rapid transformation in the international industrial and supply chain networks. In this context, the role of state-owned enterprises in the allocation of national strategic resources, the independent control of the industrial chain, and the stable operation of the economy has been further highlighted. Concurrently, the contemporary phase of scientific and technological revolution and industrial transformation is becoming more pronounced. Advancements in artificial intelligence, new energy, and other domains have exacerbated the trend of differentiation within the global economic system. In this context, external environmental risks and institutional response pressures faced by China have increased substantially[1], thereby imposing elevated expectations on SOEs with regard to strategic support, technological research, and industrial guidance. The complex and changing international environment and the inherent needs of structural transformation have jointly determined that the improvement of governance capacity of SOEs has become one of the core tasks of institutional reform. SOEs are diversified due to the differences in their business fields, service functions and resource allocation modes, and their functional positioning in the economic system varies according to the types of enterprises, so it is urgent to carry out refined and differentiated institutional design and standardized governance. In accordance with the degree of market participation established as the classification standard, the category of SOEs can be broadly categorized into two types: fully competitive enterprises and imperfectly competitive enterprises. The former operates within the market-oriented mechanism, providing common goods or services. In contrast, the latter primarily functions as a public service or is situated in fundamental and strategic industries, exhibiting characteristics of a natural monopoly or policy. The pursuit of goals, the evaluation of performance, and the logic of regulation vary across different types of enterprises. Consequently, classification reform has become the fundamental premise for the restructuring of the SOE system. Historically, China's state-owned capital has predominantly fulfilled its management role through direct oversight of enterprises, resulting in an indistinct delineation between administrative intervention and enterprise operations. This has had a deleterious effect on the effective functioning of the market mechanism. In response to the reform objectives of government-enterprise separation and market-led reform, state-owned capital regulatory authorities have gradually promoted a tiered management system for state-owned capital. This system is intended to realize the functional transformation of "managing capital as the mainstay" through capital operation platforms, enhancing the efficiency of state-owned capital allocation and system transparency.

The corporate governance system is not established in a vacuum; rather, its structural logic is frequently embedded within a nation's distinct political system, economic structure, and historical tradition[2]. The evolution of China's SOEs' governance mechanism is also characterized by "institutional endogeneity", with a unique governance model gradually formed through the interaction of policy objectives and rule of law structures. It is imperative that the reform program align with the prevailing logic of governance within China's institutional framework. This necessitates the avoidance of mere replication of Western corporate governance models. The Central Committee of the Communist Party of China has explicitly proposed that the functions of state-owned enterprises be precisely defined, and that state-owned capital be managed in a hierarchical manner. This proposal is part of the Decision of the Central Committee of the Communist Party of China on a Number of Major Issues Concerning Comprehensively Deepening Reform. This marks the inaugural instance in which the highest echelon has explicitly recommended in a pivotal national document that the functions of disparate state-owned enterprises should be meticulously delineated, and that state-owned capital should be managed in a hierarchical manner[3]. This strategic maneuver signifies a pivotal shift in the state-owned economic framework, transitioning from a focus on structural optimization to a paradigm shift in governance model design. The new model places significant emphasis on the classification of enterprises according to their functional attributes, facilitating the alignment of systems. This approach is designed to ensure differentiated supervision and precise system provision, reflecting a systematic and rule-of-law orientation that underpins the reform initiative. The classification of state-owned enterprises according to their functions serves as the foundational principle for the comprehensive reform of such enterprises. This approach encompasses the fundamental aspects of state-owned enterprise reform, including the nature of reform, the establishment of standards, the identification of pathways, the allocation of social resources, and the delineation of efficiency goals[4]. According to the principles of

[1] Chen, J., (2022). Research on building modernized economic system led by new development concept. *Theoretical Horizon*, (8).

[2] Tang, B., & Li, H., (2022). A review of research on the role of party organizations in state-owned enterprises in domestic academia since the 19th National Congress. *Journal of Beijing Administrative College*, (3).

[3] Li, J., (2013, November 30). Classification and layering reform and supervision of state-owned enterprises. *Commercial Times.*

[4] Gao, M., (2013). Reform tendency of different types of state-owned enterprises. *People's Tribune*, (S2), 37.

functional orientation, the classification of state-owned enterprises is delineated as follows. The initial category comprises public service state-owned enterprises, which are predominantly responsible for the provision of essential public services. These enterprises include entities that facilitate essential services such as urban power supply, water supply, gas supply, heating, public transportation, subways, and airports. The second category is a specific function class of state-owned enterprises (SOEs). It refers to the possession of special national resources and the national economic development of the national economy. It also refers to the assumption of specific functions and national security. Such functions include finance, oil, power grids, telecommunications, important transportation, national reserve enterprises, and military industry. The third type is the general commercial type of SOEs, which refers to SOEs in the field of full competitiveness[1]. The unique attributes, objectives, and roles of different types of SOEs within the market economy necessitate a categorized approach to SOE reform. The notion of classified reform, which underscores the profitability of SOEs while acknowledging their public nature, constitutes a pragmatic approach to the advancement of the state-owned economy, particularly with regard to enhancing national welfare. The accurate delineation of the functions of disparate state-owned enterprises, in conjunction with the reform and supervision of their classification, constitutes the prerequisite for the hierarchical management of state-owned capital. Following the classification of state-owned enterprises, a number of state-owned capital investment and operation companies will be established, taking into account the unique characteristics of each enterprise. The management of state-owned assets will be conducted through a capital management approach, a strategy that is expected to play a pivotal role in promoting the separation of government and enterprises. This approach is anticipated to enhance the efficiency of supervising state-owned assets and to fully leverage the market's determining role in resource allocation. All play a significant role in promoting[2].

From the perspective of jurisprudential structure, state-owned economic participation is considered a pivotal institutional interface between the state and the market. Consequently, this dynamic falls within the purview of economic law, serving as a critical area of regulatory focus[3]. The specific adjustment object of state-owned economic participation law includes the relationship of state-owned assets basic management, the relationship of state-owned assets investment and operation and the relationship of state-owned assets supervision[4]. In recent years, scholars have proposed the concept of "state-owned economy participation law", which aims to systematically analyze the relationship between state-owned capital, basic management, investment and operation, supervision and checks and balances. This concept has been proposed to establish an independent sub-field of study. While this concept has yet to be universally established, it possesses a positive significance for the construction of a comprehensive economic law system. The present state of affairs reveals that the classification reform of state-owned enterprises and the hierarchical supervision of state-owned capital involve multi-level issues such as system foundation, function definition, and performance mechanism. These issues not only challenge the national governance structure, but also press the research capacity of jurisprudence to form a reality. This necessity is particularly pronounced within the theoretical framework of economic law, where the development of a normative system capable of responding to the logic of classification and the interplay between regulation and market relations is imperative. A review of the extant literature reveals a paucity of systematic research on this topic within the domestic legal profession. It is evident that there is a need to enhance the institutional explanatory power and policy response.

As demonstrated in Figures 1-3, bibliometric research reveals a conspicuous disparity in the attention accorded to the issue of "state-owned economy" in the economics profession compared to its status in the legal profession, particularly in the field of economic law. The development of discourse in this domain is evidently deficient. The extant research on state-owned economies is not only limited in number, but also insufficient in overall theoretical depth and institutional explanatory power. It has not yet formed a systematic and forward-looking academic discourse system, which is difficult to meet the institutional needs of the construction of the rule of law in the new era. The absence of research in this area is indicative of the fundamental shortcomings in the theoretical framework and methodological approach of Chinese jurisprudence in its long-standing inability to adequately address economic realities. Economic reform is frequently initiated by the field of economics. However, the law, as a means of institutional protection, does not adequately contribute to the design of the

[1] Chu, X., (2013, November 22). Director of SASAC Research Center: Most SOEs become mixed ownership. Xinhua. http://news.xinhuanet.com/fortune/2013-11/22/c_125745137.htm

[2] Bai, J., (2016). Research on legal regulation of state-owned public enterprises in the context of comprehensive deepening reform. *Economic Affairs*, (06), 68–76.

[3] Gu, G. (Ed.)., (2024). *Course on economic law* (4rd ed., pp. 19–20). Beijing: Shanghai People's Publishing House & Peking University Press.

[4] Bikai, J., (1975). *Theory and practice of jurisprudence* (p. 506). Tokyo: Gakuyo Shobo.

reform process in a timely manner. This results in a disconnection between the rule of law mechanism and the economic structure. Consequently, the economic rule of law lags behind, and the law lags behind the policy of the reality of the dilemma. In the majority of countries where the rule of law is well-established, the restructuring of the economic infrastructure and the reconstitution of the institutional framework are typically spearheaded by legal professionals. These professionals assume a pivotal role in the conceptualization of the system, the delineation of power constraints, and the evaluation of policy legitimacy[1]. Conversely, in China, reforms are predominantly driven by the administration, and the involvement of legal professionals in system planning and policy evaluation is minimal. This has a deleterious effect on the quality of the rule of law and the stability of the reform system. The promotion of systematic research in the domain of economic law constitutes a pivotal approach to redefining the constructive role of lawyers within the national governance system. The state-owned economy constitutes a pivotal component of the socialist system with Chinese characteristics. Consequently, any examination of this economic sector must be conducted within the framework of China's distinctive historical trajectory and its prevailing political and economic configuration. The application of Western theoretical models is not a viable option, nor can institutional comparison and theoretical abstraction be excluded. In light of these developments, it is imperative for legal professionals, particularly those specializing in economic law, to assume an active role in the process of institutional development and policy formulation. This involvement is crucial for ensuring that the research endeavors are anchored in the tangible realm of institutional transformation. Moreover, it is essential to establish an autonomous theoretical framework and an interpretative paradigm for Chinese economic law within the context of the reform process.

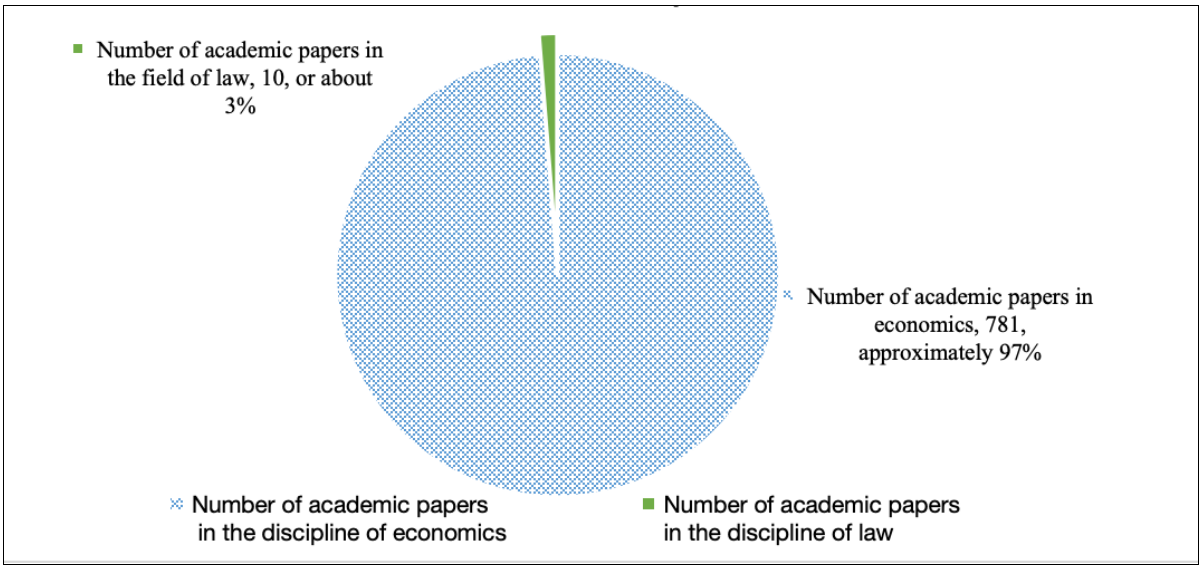

Figure 1. Comparison of the number of academic papers on "state-owned enterprises" between economics and law disciplines from 2013 to 2022

[1] Zhu, J., (2013). *Legal adjustment of state-owned enterprise reform (Preface)*. Beijing: Tsinghua University Press.

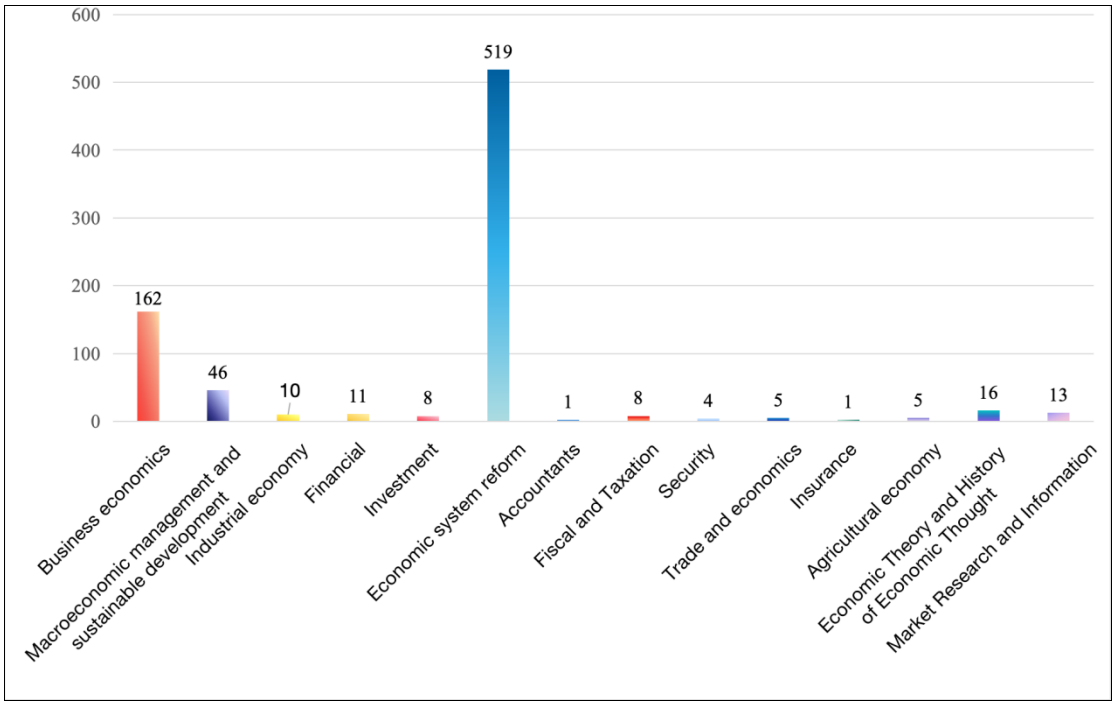

Figure 2. Number of academic papers on "state-owned enterprises" in various fields of economics from 2013 to 2022 (unit: articles)

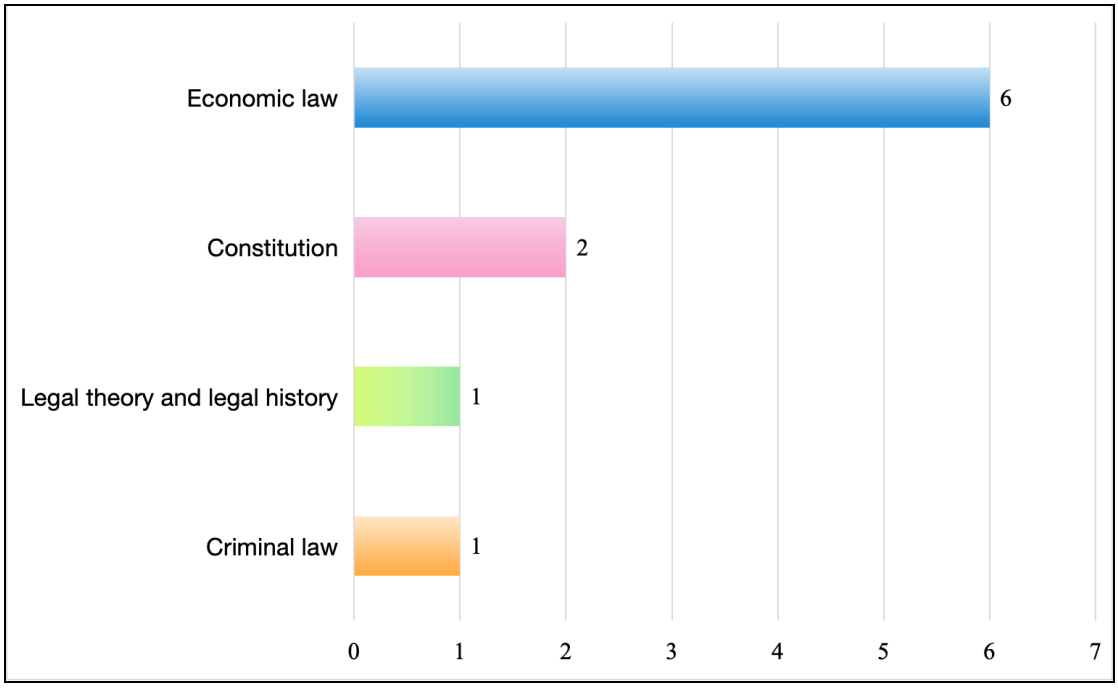

Figure 3. Number of academic papers on the subject of "state-owned enterprises" in the discipline of law from 2013 to 2022 (unit: articles)

Source: China Knowledge Network, http://www.cnki.net/, information collected on November 10, 2022.

There are 10 academic papers in the discipline of law, including 6 in the field of economic law, 2 in the field of constitutional law, 1 in the field of jurisprudence and history of law, and 1 in the field of criminal law; there are 781 academic papers in the discipline of economics, including 162 in the field of enterprise economy, 46 in the field of macroeconomic management and sustainable development, 10 in the field of industrial economy, 11 in the field of finance, 1 in the field of accounting and 8 in the field of investment, 519 in the field of economic system reform, 13 in the field of market research and information, 8 in the field of finance and taxation, 5 in the

field of trade economics, 5 in the field of agricultural economics, 16 in the field of economic theory and the history of economic thought, 1 in the field of insurance and 4 in the field of securities.

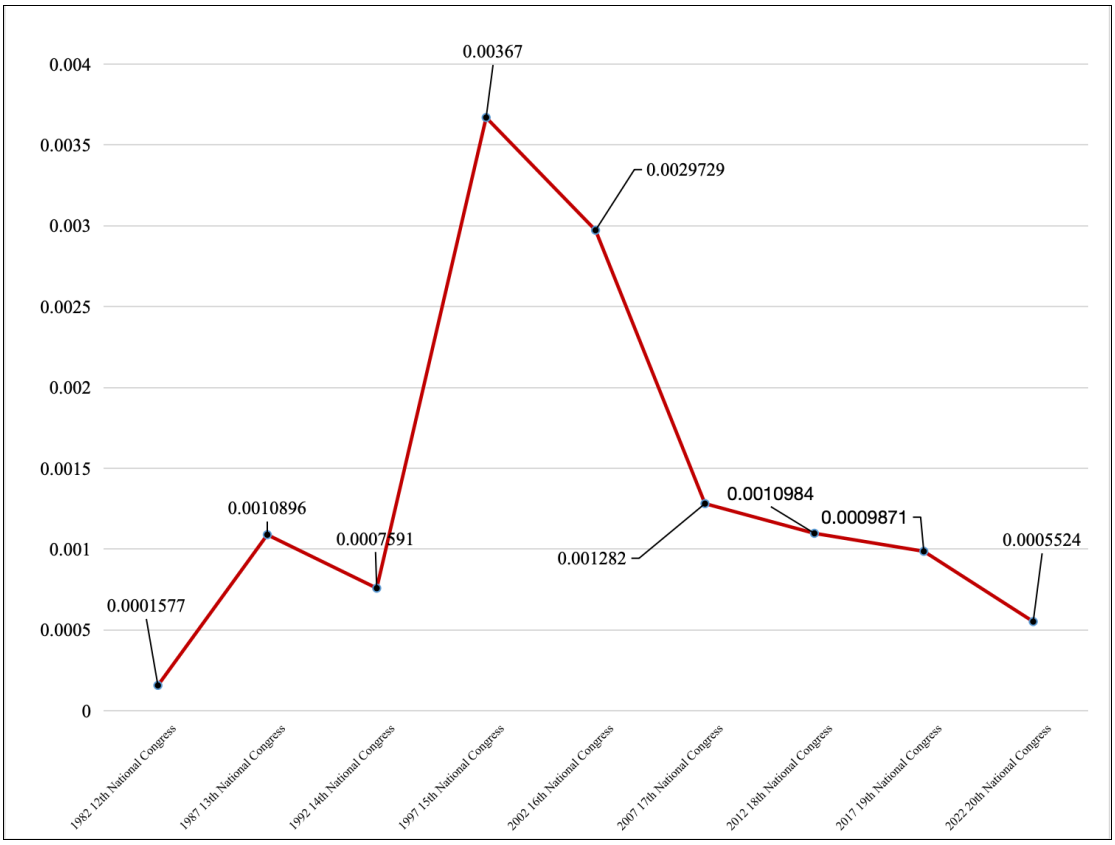

Figure 4. Frequency of the terms "state-owned enterprises," "state-owned economy," "SOEs," and "public ownership" in the reports of the National Congresses of the Communist Party of China from 1982 to 2022

Source: The data in the figure are taken from the Twelfth and Twentieth Reports.[1]

As demonstrated in Figure 4, the frequency of the terms "state-owned enterprises", "state-owned economy", "state-owned enterprises", and "national ownership system" in the reports of the National Congress of the Communist Party of China (CPC) over the past three decades provides a clear indication of the status of the reform of state-owned enterprises during a specific period. The frequency of the term "national ownership" in the reports of the National Congress of the CPC over the past three decades offers a clear indication of the state of the reform of SOEs during a specific period. The 15th and 16th Congresses represent pivotal stages in the reform of SOEs in China. Consequently, the Party's report includes a greater number of proposals regarding state-owned enterprises. Since the 17th National Congress, the Party's reports have exhibited a consistent downward trend in expressions related to state-owned enterprises, indicating that China's reform of state-owned enterprises has been relatively stable. It is evident that the regulatory framework governing state-owned enterprises has undergone a gradual process of refinement and finalization. At this juncture, it is imperative to methodically synthesize China's experience in the realm of state-owned enterprise reform and establish a comprehensive array of robust legal frameworks that will underpin the state-owned economy.

[1] Calculated as follows: the number of words appearing in the words "state-owned enterprises", "state-owned economy", "state-owned enterprises", "national ownership", "state-owned enterprises" and "national ownership". Number of words/total number of words in the body of the government work report of that year. Data source: https://www.12371.cn/special/lcddh/, All National Congresses of the Communist Party of China, accessed on November 10, 2022.

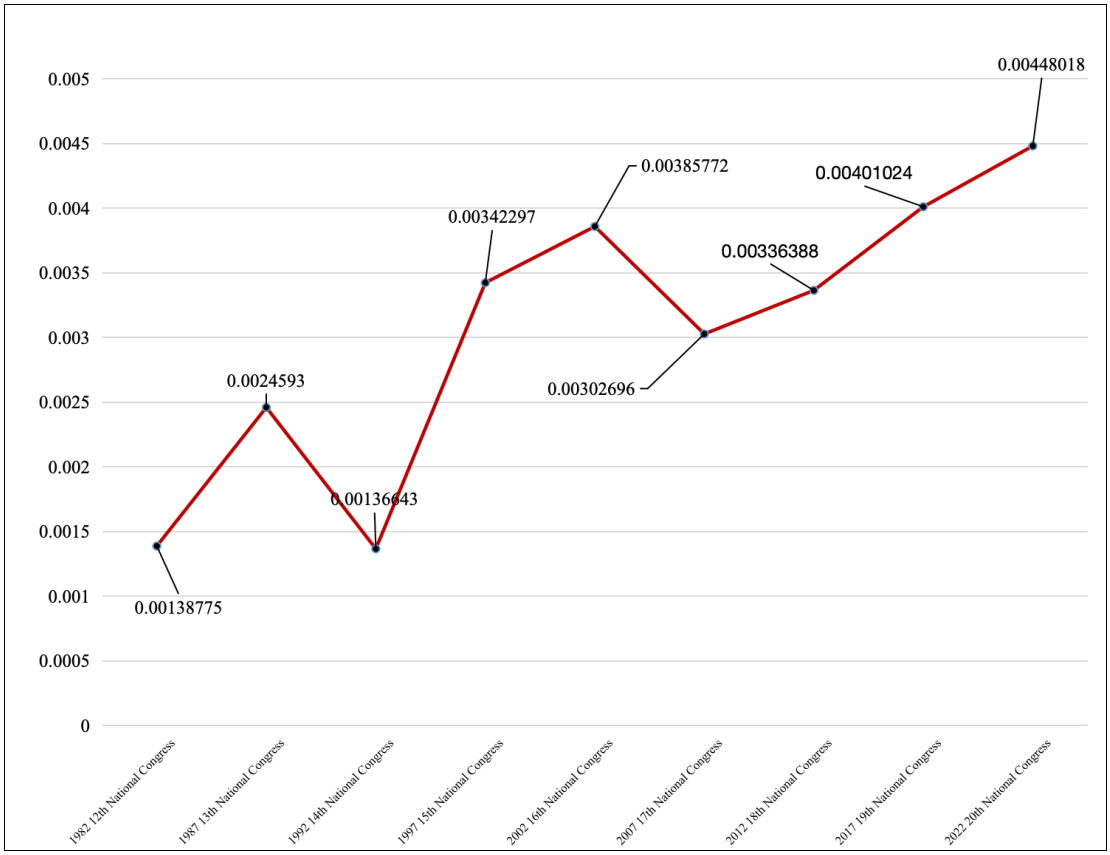

Figure 5. Frequency of the term “law” with legal connotations in reports of the National Congress of the Communist Party of China, 1982-2022

As demonstrated in Figure 5, an examination of the reports of the National Congress of the Communist Party of China (CPC) over the past four decades reveals a marked increase in the frequency of the term “law” with a legal connotation, particularly since the Eighteenth National Congress. This surge in mentions can be attributed to the heightened emphasis on the rule of law during this period, signifying the core CPC leadership’s prioritization of this principle. As early as 2014, prior to the Two Sessions, Chinese leaders emphasized at the second meeting of the Central Leading Group for Comprehensively Deepening Reforms that reforms should be deepened within the framework of the rule of law and that the rule of law should provide a legal guarantee for deepening reforms. It was noted that all significant reforms should be grounded in legal principles, and that throughout the reform process, it is imperative to prioritize the implementation of the rule of law and the rule of law’s role as a leader and promoter. Simultaneously, it is crucial to enhance the coordination of relevant legislative work to ensure that reforms are progressing in accordance with the rule of law. It has been emphasized that the reform of the economic system serves as the foundation for the comprehensive deepening of reform, exerting a pull effect on reforms in other areas. This observation indicates that the issue of the rule of law in the economy is an area that is unavoidable and requires great attention.

In order to promote reform in accordance with the rule of law, it is necessary to shift our thinking from the perspective of “setting rules while catching cards” to the approach of “setting rules before catching cards”. Regardless of the specific field of reform, it is essential that all efforts align with the principles of the law and the rule of law. This is particularly crucial in the context of promoting economic system reform. In the contemporary market economy, which is founded on the rule of law, this principle is acknowledged. However, it should be noted that merely adhering to the rule of law is insufficient. The necessity for the state to assume a strategic level, encompassing the economic rule of law previously discussed, becomes increasingly evident. The legal profession rarely engages with such a thesis, which is often confined to the interdisciplinary divide. As the nation’s primary design program, the law must enhance its communication and collaboration with diverse national governance domains. This is essential for formulating a dependable top-level design program that can be applied across various sectors. The modernization of national governance is contingent upon the modernization of the rule of law, which is the prerequisite foundation and fundamental guarantee. The promotion of reform must be executed through the implementation of the rule of law. The outcomes of reform, naturally,

must be established and preserved by the law[1]. The overarching objective of the ongoing reform initiative is the comprehensive enhancement of the economic system. The crux of this endeavor lies in the harmonization of the government's and market's respective roles in resource allocation, thereby ensuring the optimal functioning of both systems[2]. It is imperative to elucidate the pivotal function of the market in the apportionment of resources and the necessity to further refine the reform of SOEs. These enterprises have, for an extended period, impeded the seamless operation of the market within a market economy. The government and enterprises are inextricably linked to market subjects, a consequence of the disparity in the status of SOEs and private enterprises or other business entities. The reform of SOEs is inextricably linked to the pivotal function of the market in resource allocation. To a certain extent, the success or failure of economic system reform can be attributed, at least in part, to the reform of SOEs[3]. Furthermore, it is imperative to acknowledge the role of competition in the market. Competition is not merely an essential component of a market economy; it is also the fundamental process that drives the market mechanism. In addition, competition serves as a crucial method of allocating market resources. It is instrumental in regulating the relationship between the government and the market. Ultimately, the extent to which and the manner in which the competition mechanism is employed to allocate resources will determine the effectiveness of this process[4]. The immediate consequences of the classification and stratification reform of SOEs will be the intensification of market competition. A greater number of SOEs will engage in market competition across a broader range of market segments. Additionally, private and foreign capital will increasingly penetrate sectors previously dominated by SOEs. The re-positioning of the mixed ownership system will also elevate its significance in economic development. These developments underscore the centrality of competition issues, which are also a matter of competition policy at a deeper level. From a comprehensive standpoint, this matter also pertains to the realm of competition policy. Historically, SOEs, which have traditionally been more focused on public policy, have been compelled to adapt to the evolving landscape of competition policy. This evolution can be understood as a multifaceted series of policies designed to promote competition, including legal frameworks such as competition law[5]. It is imperative to acknowledge the distinct role that competition policy plays in the development of SOEs and mixed ownership models. This is particularly salient in the context of ongoing SOEs reform, particularly subsequent to the implementation of the aforementioned reforms[6]. The current series of reform proposals necessitates a reevaluation of the conventional approach to state-owned enterprise reform, wherein the implementation of legislation is prioritized over the fundamental reform of SOEs. This reformation must be anchored by the principles of the rule of law, necessitating the adaptation of legal frameworks to ensure their alignment with the overarching reform objectives. This adaptation process entails the thorough revision of existing laws or the introduction of new legislation, thereby ensuring the efficacy and sustainability of the reform process. As previously stated, it is imperative that economic system reform be predicated on the rule of law, conceptualized not merely as a method, but as a comprehensive strategy. In such circumstances, the legal profession, particularly the economic law profession, ought to commit to comprehensive and profound reform with a more proactive stance, fulfilling its designated role. The reform of SOEs constitutes a pivotal component within the broader framework of

[1] Bai, J., (2016). Socialist market economy in the process of comprehensively promoting the rule of law. *Journal of Guangxi Political and Legal Management Cadre College*, *31*(01), 20–25.

[2] Central Committee of the Communist Party of China, (2013, November 12). Decision on several major issues concerning comprehensively deepening reform.

[3] Bai, J., (2016). Socialist market economy in the process of comprehensively promoting the rule of law. *Journal of Guangxi Administrative Cadre Institute of Politics and Law*, *31*(01), 20–25.

[4] Xu, S. Y., (2013). *Competition policy research: International comparison and China's choice* (General Preface). Beijing: Law Press.

[5] In the international community, the term "competition policy" is used at three levels: first, competition policy in the narrow sense, which refers exclusively to anti-monopoly policies (antitrust laws) that encourage competition and restrict monopoly; second, competition policy in the broad sense, which encompasses all kinds of public measures taken to maintain and develop the competitive market mechanism, and is the "competition policy" of "promoting competition"; and third, competition policy in the broadest sense, which refers to all competition-related policies and measures, covering all "competition promotion" as well as "competition restriction" policies. The second is competition policy in a broad sense, covering all public measures taken to maintain and develop the competitive market mechanism, which is the competition policy of "promoting competition"; the third is the competition policy in the broadest sense, which refers to all policies and measures related to competition, and covers all policies of "promoting competition" as well as those of "restricting competition". (c) Competition policy in its broadest sense. By safeguarding competition, encouraging innovation and protecting consumer interests, competition policy not only has a promotional function for economic development, but also has an overarching function for economic policy and an "umbrella" function for the operation of the market economy.

[6] Bai, J., (2016). Socialist market economy in the process of comprehensively promoting the rule of law. *Journal of Guangxi Administrative Cadre Institute of Politics and Law*, *31*(01), 20–25.

economic system reform. It is incumbent upon the economic law profession to fortify its research endeavors in this domain. Economic law scholars are uniquely positioned to contribute to this process[1]. In their economic law research on the topic, Wu Zhipan and Xiao Jiangping, two prominent scholars in the field, have proposed a novel approach. They argue that scholars of economic law must adopt a more profound "China problem consciousness". This entails a deep understanding of China's economic and social development challenges, as well as an acute awareness of the country's unique national conditions[2]. They contend that this responsibility falls squarely on the shoulders of legal professionals in China, who must take it seriously and act accordingly. A rigorous examination of economic law necessitates a meticulous investigation into the intricacies of local resources[3]. This is a consequence that is inherently bound to the fundamental principles of economic law. It is also a quality that contributes to the appeal and allure of economic legislation[4].

4. The Research Mission of Economic Jurisprudence in the Path to Rule of Law

As the largest developing country, the uniqueness of China's socialist market economy system is centered on the dialectical unity of "effective market" and "competent government": on the one hand, it is necessary to follow the general law of market economy and connect with international rules, and on the other hand, it is necessary to safeguard economic sovereignty based on the basic conditions of the primary stage of socialism[5]. Economic law, as a discipline of applied law with the state regulating the market as its core issue, stems from the evolutionary needs of the real economic structure. Its fundamental task is not only to regulate micro-transactions in the operation of the market, but also to respond to the major institutional goals of national strategies. From the perspective of international experience, economic law has played a fundamental role in coordinating between state intervention and market operation, as evidenced by the construction of "social market economy" in post-war Western Europe and the "developmental national strategy" under the East Asian model. In consideration of the distinctive institutional context of contemporary China, economic law must prioritize its roles in policy integration and institutional development, particularly in the context of promoting the reform agenda centered on SOEs. The primary objective of functional research and institutional innovation in economic law should be to address these challenges.

As China continues to modernize, the "rule of law" has emerged as a pivotal aspect in the reform of the national governance system. The construction of the rule of law within the domain of state-owned economy constitutes a pivotal and challenging facet of this process. For an extended period, the reform of SOEs has been predominantly policy-driven, with legal rules primarily consisting of ex-post adjustments and technical cooperation. This approach exhibits a dearth of top-level institutional supply and systematic normative logic, impeding its capacity to effectively support the institutional stability and sustainability of the reform outcomes. In this context, economic jurisprudence should take the initiative to embed reform issues, combine institutional regulation, functional adjustment, and theoretical innovation, and promote the formation of a state-owned economic legal system that is highly compatible with the socialist market economic system.

SOEs serve as a pivotal platform for macroeconomic regulation and industrial guidance, exhibiting a high degree of institutional and practical characteristics in their legal governance. Presently, the economic law profession places greater emphasis on areas such as monopoly regulation, market supervision, and related fields. However, research on fundamental issues related to the governance mechanisms of SOEs, the operational rules of capital, and the governance structures of corporations remains inadequate. This structural deficiency not only undermines the integrity of the discipline but also imposes limitations on its capacity to contribute to national strategies. It is imperative that future research endeavors augment the extant corpus of knowledge on this subject, building upon the existing foundation. This augmentation should be systematic, with the objective of establishing a comprehensive system of rule of law structure for SOEs. This system should be centered on "classified governance, capital logic, and competition orientation". By doing so, the contribution of economic law to national governance will be enhanced.

In principle, economic law should establish a subsidiary system of "state-owned economic law", characterized

[1] Bai, J., (2016). Research on legal regulation of state-owned public enterprises in the context of comprehensive deepening reform. *Economic Affairs*, (06), 68–76.

[2] Wu, Z., & Xiao, J., (2007). Construction of harmonious society and innovation of economic law. *China Legal Science*, (1).

[3] Zhang, S., (2006). The "combination" and "synchronization" of economic law research. *Tribune of Political Science and Law*, (3).

[4] Bai, J., (2016). Socialist market economy in the process of comprehensively promoting the rule of law. *Journal of Guangxi Political and Legal Management Cadre College*, *31*(01), 20–25.

[5] Bai Jinya, (2025). The Chinese logic of fair competition review under the threshold of institutional change: Reconstruction of the government-market relationship based on the transformation of the socialist market economy system. *World Journal of Sociology and Law*, *3*(1), 7–17.

by robust integration and discernible institutional tensions. The system should encompass not only enterprise law, corporate governance law, state-owned assets supervision law, and other extant institutional units, but also be capable of responding to mixed ownership reform, capital authorized operation, public function division, and other emerging issues. This necessitates the application of economic jurisprudence, which involves the integration of economic analysis into legal frameworks. It is essential to transcend the prevailing research paradigm that prioritizes administrative regulation, thereby emphasizing institutional design and rule innovation centered on governance structure. The classification reform and differentiated regulation are not purely technical issues; rather, they are the reconstruction of legal norms, which should be systematically integrated and theoretically responded to through the perspective of economic law.

The institutional attributes of Chinese SOEs imply that their governance structure cannot be replicated from the standard model of Western corporate governance. In the market economy of Europe and America, corporate governance emphasizes the supremacy of shareholders and market efficiency. Conversely, in China, SOEs are also assigned the dual mission of public functions and policy objectives. The question of how to effect a functional transformation in governance structure without compromising efficiency has emerged as a critical proposition in the realm of economic law research. This necessitates a reexamination of the legal subjectivity and governance boundaries of SOEs, as well as the establishment of a clear legal mechanism between ownership and operation. In this process, economic law scholars should assume the dual role of integrators and designers.

Moreover, the reform of the hierarchical management system of state-owned capital has given rise to novel research tasks. The reform path of “mainly managing capital” necessitates the transformation of the conventional administrative supervision mechanism into a capital governance mechanism. This transformation encompasses not only a change in technical means but also a reshaping of the jurisprudential structure. The primary objectives of economic law are to clarify the legal authorization of state capital supervision, establish the responsibility boundary, and optimize the governance process. The study of economic law should concentrate on the authorization of state capital, the distribution of capital gains, the disposal of state-owned assets, and other key aspects. The establishment of a normative, institutional, and operational legal system is essential to support the entire state-owned management system and to promote the process of rule of law.

In the context of local state-owned enterprise reform, a reform model comprising “capital operation platform + functional company” has emerged in various locations, thereby providing a substantial institutional sample for economic law research. For instance, the Shenzhen State-owned Assets Operation Company has initiated the adoption of a market-oriented governance structure and an entrusted management system. Concurrently, Beijing, Shanghai, and other regions are undertaking proactive measures to promote the reform of platform-type State-owned Assets Companies. Despite the absence of a consolidated national model, the collective experiences of these reforms have elucidated distinct response requirements for economic jurisprudence. Researchers are tasked with the synthesis of local experiences over time, the provision of legal foundations, and the formulation of policy recommendations for central legislation and top-level design. This objective is to be achieved through system comparison and functional analysis.

In terms of research methodology, the study of economic law should promote paradigm renewal and move away from the traditional path of single-sector regulation or article annotation. Empirical jurisprudence should be employed to conduct tracking research on reform measures, including local legislation, statutes of SOEs, and contract systems. Concurrently, the legal construction of micro-systems, such as governance structure, conflict of interest, and supervisory system, should be strengthened. The legal system must be considered in relation to the functional position, and the normative design must align with the logic of system operation. It is imperative that research in the field of economic law overcome the prevailing structural barriers that exist between the theoretical, policy-oriented, and practical aspects of the discipline. By doing so, the field can enhance its capacity to provide both a realistic explanatory framework and a constructive contribution to academic discourse.

A comparative law perspective is also an important path to enhance the depth of research. The European Union, Germany, Japan, and other countries have accumulated a significant amount of mature legal experience in the governance of SOEs. A set of standardized and adaptable legal mechanisms has been developed in the domains of governance structure, information disclosure, and social function performance. In the process of developing its legal infrastructure, China has the opportunity to selectively incorporate external elements, while preserving the autonomy of its legal system, particularly within the context of the convergence of competition law and public service law. It is imperative that the study of economic law reposition itself within the evolving global governance structure. This repositioning should enhance the field’s capacity for system design and international rule dialog.

In conclusion, with regard to the establishment of disciplinary institutional safeguards, researchers specializing in economic law should also promote the establishment of a two-way interactive mechanism with policy

formulation, enterprise management, and legislative revision. The establishment of research platforms, legislative consultant mechanisms, and enterprise legal cooperation mechanisms has the potential to enhance the practical impact of economic law theories. It is imperative that economic jurisprudence not only serve as an agent of knowledge system research, but also assume an active role in the development of the national system. It is only through this approach that economic law can adequately fulfill its institutional mission in the context of the rule of law within the state-owned economy. By doing so, it will serve the overarching objective of establishing a socialist rule of law system that is uniquely Chinese.

5. Conclusion

As a practice-oriented social science, the research task of jurisprudence is to respond to legal problems in the social transformation and to provide theoretical and normative support for national governance through institutional construction. The substantial and distinctive shifts in China's economic and societal landscapes have engendered a profound and singular environment conducive to the study of law. This is particularly salient in the context of economic law, which is a sectoral law of institutional regulation. To that end, economic law should demonstrate a proactive response to the needs of reality, effectively integrate social hotspots with academic theories, and enhance the relevance of research to contemporary issues and the explanatory power of the system. Following an extended period of empirical investigation, socialism with Chinese characteristics has unveiled an alternative modernization trajectory that diverges from the Western-centric paradigm of modernization. This development challenges the prevailing notion that modernization must be confined to a single path or modality, thereby challenging the monolithic perspective of modernization as a Western phenomenon.[1] The evolution of China's economic legal framework, characterized by its unique historical and cultural context, has been inextricably intertwined with the nation's pursuit of modernization. The primary focus of China's legal research should be on the lives, practices, and social reform and development of 1.4 billion Chinese people. Economic law, defined as a departmental law that studies the phenomenon of economic law, should be examined in the context of China's unique economic characteristics and the development of Chinese economic law. For economic law, which is a sectoral study of economic law phenomena, given its strong country-specific characteristics and the transformation of China's economy and society, it is all the more important to cherish and utilize this valuable resource (12). In light of the profound evolution of state-owned economic reform in the contemporary era, it is imperative to methodically construct a unified, standardized, and forward-looking legal system for the state-owned economy. This legal framework should be grounded in empirical economic findings and international best practices, while also incorporating China's institutional practices and local theories. This is not only an institutional requirement for the modernization of national governance, but also a practical opportunity to promote the in-depth development of economic law theories. Furthermore, it is a key link to realizing the transition from a policy system to a legal system.

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