

KIGALI INDEPENDENT UNIVERSITY (ULK)

B.P. 2280 KIGALI
Tel (250) 0788304081, 0788304086,
0788304084, 0788303667
e-mail: ulk@rwandatel.rwanda1.com
Website: www.ulk.ac.rw



SCIENTIFIC REVIEW OF THE UNIVERSITY

N°16

DITIONS OF THE KIGALI INDEPENDENT UNIVERSITY

March 2010

TABLE OF CONTENTS

EDITORIAL	2
1. KARIMUNDA MUYOBOKE AIMÉ	
Intoxication as a multiple defense in criminal law: A lesson from South Africa Law.....	4
2. NYIRANSABIMANA VENANTIE	
Gender imbalance in secondary and tertiary education and its effects on the socio-economic welfare of rural households in Rwanda : A case of Nyakiriba Sector, Rubavu Disrict.....	33
3. PROFESSOR TEMBUE ZEMBELE WA OLOLO	
Language teaching at Rwanda Tourism University College (RTUC), challenges and perspectives.....	80

EDITORIAL

All professions grow, change, build credibility and make improvement based on the research they conduct and produce. A researcher does not have his specific job; a researcher is every one whose job function is to contribute original production of scientific knowledge. Also, research is not necessarily the only activity of the researcher; other tasks such as teaching in Universities may be assigned to him as well. This coupling teaching and research are by far the most common university activities of dons. Lecturers generally occupy a central place in national research systems. It is in this way that the sixteenth issue of the ULK Scientific Review is released to the public with three publications.

Considering that today a significant proportion of criminal offences are committed by intoxicated persons and that Rwandan and South African courts; and even overseas courts, have shown an ambivalent attitude to intoxication, KALIMUNDA Aimé, Dean of the Faculty of law at ULK Gisenyi, recommends that Rwandan legislature take steps in clarifying the law on intoxication.

According to Professor Tembue Zembele wa Ololo, Lecturer at Rwanda Tourism University College (RTUC), communication within the national community needs to be enhanced via the provision of language skills to citizens, particularly those attending institutions of higher learning. This is the very essence of the bilingual policy of the Government whose aim is to train skilled and articulate graduates to serve as the knowledge hub of the sub region. However, the results recorded in various institutions of higher learning in the country indicate that language is still a challenge for most students to the point that the policy is seriously at stake.

After conducting a research on gender imbalance in secondary and tertiary education; and its effects on the socio-economic welfare of rural households in Rwanda, NYIRANSABIMANA Venantie, lecturer at ULK/Kigali Campus, reveals the even if Rwanda has made enormous good progress towards in improving access of boys and girls to education at all levels, and in promoting gender equality within the education system, female students continue to lag behind in educational achievement and success. This particularly is so at the secondary and tertiary levels, where the enrolment of girls, completion and achievement rates are still low. The case study of her research is on Nyakiriba Sector (Rubavu District).

The university takes this opportunity to express its deep gratitude to all those who have contributed significantly to the realization of this 16th issue of scientific Revue.

Prof. Dr NGAGI M. Alphonse

The Rector

INTOXICATION AS A MULTIPLE DEFENCE IN CRIMINAL LAW: A LESSON FROM SOUTH AFRICA LAW

Karimunda Muyoboके Aimé

LLB (Butare), LLM (Prétoria), PhD

Student (National University of Ireland,

Galway) Lecturer of criminal law

Kigali Independent University

Introduction

Today, it is proved that a significant proportion of criminal offences are committed by intoxicated persons¹. Intoxication resulting whether from alcohol, drugs or medication impairs perception, judgment and muscular co-ordination. There is intoxication when X has voluntarily or involuntarily taken any substance capable of altering mood, perception or consciousness, of losing inhibitions and self-control, of impairing movements, reactions, judgments and ability to envisage consequences. Intoxication removes or reduces the restraints and inhibitions that normally lead conduct and impairs the capacity to distinguish right from wrong and to act according to that appreciation². The mind of a severely intoxicated person may well be physiologically indistinguishable from a mind impaired as a result of severe mental illness, except that for this there should not be a pathological mental disease for which neither X nor any third person could not ward off.

¹ May this be an opportunity to thank Professor Jolandi Le Roux from the Faculty of Law of the University of Pretoria (South Africa) who guided this work and helped us very much in its editing. Many thanks also to the ULK's scientific research office which secured internal and external editors. Your contribution has made it what it is and I bear the full responsibility for any remaining mistake.

² There is a sufficient correlation between alcohol use and cases of assault, homicide, vandalism and domestic violence because whether the drunken person loses personal control and engage in immoral behavior including violence (**moral theory**); whether his aggression state is released by pharmacological effects of alcohol (**disinhibition theory**) or the alcohol effects release the pathological intoxication (**stimulation theory**). See John E. Hodge "Alcohol and violence" in Pamela J. Taylor (ed) *Violence in society* (1993) pp 129-130 quoted by Clarkson & Keating *Criminal law: text and materials* (2002) 467-8; Simester & Sullivan *Criminal law: theory and doctrine* (2003) 559.

³ Burchell & Hunt *South African Criminal Law-general principles of criminal law* (1997) 183; Gross Jones & Card *Introduction to criminal law* (1998) 172.

In such a condition, it was often asked if the intoxicated person knew what he was doing or if he intended his action. In considering that intoxication can cause persons to commit crimes which they would never commit while sober, Rwandan and South African courts; and even overseas courts³, have manifested an ambivalent attitude to intoxication. Reducing oneself to a drunken state is not a kind of conduct that the legal system wants to be encouraged.

Article 70, paragraph 2 of the Rwandan penal code provides that voluntary intoxication is not a defense even when the offender did not intend to commit the offence before he gets intoxicated. The law remains silent about involuntary intoxication. Since grounds of justification (self defense, necessity and obedience to law or to manifestly legal orders of legitimate commanders) are mixed or better confused with grounds of non culpability (mental illness, constraint, mistake and ignorance) under the first paragraph of the said article, the question remains the nature of intoxication broadly speaking⁴.

Moreover, article 71 excludes the possibility of extending criminal defenses available under article 70 to co-perpetrators and accomplices. A study of this provision would imply that all criminal defenses under article 70 are grounds of non culpability as they operate *in personam*. To the contrary, one finds obedience to law or to manifestly legal orders of legitimate commanders lying beside mental illness and constraint, the former being a ground of justification that operates *in rem* and the two others grounds of non culpability

³ For example in Britain intoxication even involuntary intoxication does not provide a defence in its own terms. See respectively *DPP v Majewski* (1977) AC 443 (HL) and *DPP v Kingston* (1995) 2 AC 369 (HL). In Canada the Supreme Court has held that self-induced automatism could be a defence even if this resulted from voluntary intoxication. See Revelle (1980) 48 C.C.C. (2) 267 (ONT. C.A.) quoted by Stuart *Canadian Criminal law: a treatise* (1995) 111 (n 266).

⁴ Article 70 of the Decree Law no 21/77 of the 18th August 1977 as amended and completed today.

The concept itself is even unexploited by our legal system. Perhaps before studying how our courts deal with it practically, it is relevant that the concept be analyzed theoretically. In this regard, Rwandan law has a lot to learn from the development of South African criminal law that makes a clear difference between voluntary intoxication and involuntary intoxication and determines when intoxication can be resorted to as a defense and when it cannot.

As we shall see later, in South African law until 1981 when the Chrétien's case⁵ changed the rule, courts had already said on behalf of public policy that voluntary intoxication could never be recognized as a defence⁶. Frightened by the effect of the new rule in Chrétien case that threatened public policy in holding that voluntary intoxication can be a complete defence to any crime, the legislature enacted the *offence of statutory intoxication* by the Criminal Law Amendment Act 1 of 1988. While discussions are continuing on the judges and legislature's position in matter of voluntary intoxication, the legislature, judges and academics are unanimous to the fact that a severe involuntary intoxication must always be seen as a defence⁷.

For Rwandan lawyers as well as for those of South Africa, all the above-mentioned considerations raise a set of questions, *inter alia*:

- ♦ When and how does the law take the intoxication into account?
- ♦ What kind of intoxication can be a defence (because even involuntary intoxication is not always a complete defence)?

⁵ *S v Chrétien* 1981 (1) SA 1097 (A).

⁶ *S v Johnson* 1969 (1) SA 201 (A).

⁷ *R v Innes Grant* 1949 (1) SA 753 (A); *S v Hartyan* 1980 (3) SA 613 (T); S 1 of the Criminal Law Amendment Act 1 of 1988; Burchell & Hunt *South African Criminal law and procedure- general principles of criminal law* (1970) 228; Maré "Criminal law" in Hosten *Introduction to the South African Law and legal theory* (1995)1101; Snyman *Criminal law* (2002) 222; Burchel & Milton *Principles of criminal law* (1997) 262; Burchell "Intoxication and the criminal law" (1981) *SALJ* 188; Paizes "Intoxication through the looking-glass" (1998) *SALJ* 783-784.

- ◆ What are the effects of voluntary intoxication and involuntary intoxication as a defence?
- ◆ Why had South African parliament limited courts' power in matters of intoxication?

In this respect, we shall firstly examine those situations in which the accused has knowingly consumed intoxicating substance and seeks to adduce this as evidence that he should not be held responsible for the act committed. Secondly, we shall look at the defendant who was intoxicated at the time of committing the offence but who cannot be blamed for that intoxicated state. Lastly, before conclusion, we shall give prominence to the *ratio legis*, area of application and limits of the statutory approach.

I. VOLUNTARY INTOXICATION: A DEFENCE OR AN ELEMENT OF THE OFFENCE

Voluntary intoxication results from the intentional taking of any substance knowing that it is capable of having an intoxicating effect which can impair the appreciation of a wrongful act or can prevent to act in accordance with that appreciation⁸. The British rule applied in South Africa until the *Chrétien case* determined that intoxication of a sufficient degree can exclude the 'specific intent' but not the 'basic intent'.

In *DPP v ajewski*, the House of Lords considered that an offence of specific intent was a crime where the *mens rea* extends beyond the *actus reus* or requires a proof of 'purposive element'⁹. Extensively, crimes of specific intent are those where the *mens rea* is essentially expressed in terms of intent while in crimes of basic intent intention or negligence suffices for conviction¹⁰.

⁸ section 1 (1) of the Criminal Law Amendment Act 1 of 1988 (South Africa)

⁹ *DPP v Majewski supra* n3.

¹⁰ *Simester & Sullivan* 562.

This rule has been rejected in Australia¹¹, Canada¹², New Zealand¹³ and South Africa¹⁴ notably because the terms 'specific intent' and 'basic intent' were qualified as ambiguous¹⁵. Nevertheless, for exhausting the point under study it is better to give thereafter the background and position of the South African law in matter of voluntary intoxication where there seems to be inconsistency between the idea of public policy and that of individual justice (I.1) before dealing with it in relation to *actio libera in causa* (I.2.), automatism and negligence (I.3) and insanity or mental illness (I.4).

1.1. The public policy versus individual justice

Before 1981, voluntary intoxication could never be a complete defence. Courts drew a distinction between specific intent and general intent, both being English law principles. The Roman Dutch law¹⁶, while allowing no justification for crimes committed under the influence of alcohol contented with drawing a distinction in the degree of punishment.

It led merely to mitigate punishment¹⁷. This meant that the accused's criminal capacity was taken into account at the moment where he had criminal capacity but lacked it at the material time of the offence because of intoxication. Accordingly, the intoxicated person should be criminally liable because, as a normal person, he did a fault.

¹¹ *The Queen v O'Connor* (1980) 29 ALR 449.

¹² *R v Daviault* (1995) 93 CCC (3d) 21 (SCC).

¹³ In *Kamipeli* (1975) 2 NZLR 610 (C.A.) the Court of Appeal held that intoxication may affect the intent.

¹⁴ *S v Chrétien supra* n 4.

¹⁵ *S v Chrétien Ibidem*; Burchell & Milton 262; Loewy *Criminal law in a nutshell* (2000) 184.

¹⁶ Holmes J had already required to call South African the law applied in South Africa even if its roots are Roman Dutch. See *Ex Parte De Winaar* 1959 (1) SA 839.

¹⁷ *S v Ndlovu* 1965 (4) SA 692 (A) (at 696).

Having foreseen as well as possible the commission of the crime, the accused himself rendered guilty of a *dolus eventualis* and thus an intentional crime for which a sufficient degree of intoxication can be a mitigating factor and not a defence¹⁸.

Mindful of the severity of the Roman Dutch rule and of the far-reaching consequences of allowing voluntary intoxication to excuse in the same way as insanity, South African law adopted the midway: the rule of 'specific intent'. In the case of voluntary intoxication of sufficient degree to negate the relevant 'specific intent' the accused would be found guilty not of the crime charged (as it should be if the Roman Dutch law was applied) but of a less serious crime¹⁹. This rule has been adopted because of public policy threatened by the confusion between the state of intoxication and one of insanity. Justifying the rule of 'specific intent,

the court in *S v Johnson*²⁰ had quoted Wessels J who established the following criteria in *R v Bourke*²¹ for avoiding any misunderstanding:

- ◆ An insane person is a victim of disease whereas a drunken person induced voluntarily his conditions.
- ◆ It is reasonable to consider that a voluntarily intoxicated person is responsible for all acts done in having taken an excess of liquor.
- ◆ To allow drunkenness to be pleaded as an excuse would lead to a state of affairs repulsive to the community and the regular drunkard would be more excused from punishment than the sober man.

¹⁸ It is submitted that "such a man is all the more responsible, precisely because he knowingly put himself into a state of dyscontrol [sic] by drinking to excess following which any thing could happen (and did)". Stone *Healing the mind* (1998). However today the wave is changing in favor of the specific intent principle. See Pradel *Droit pénal général* (1996) 562- 563.

¹⁹ *S v Johnson supra* n 5.

²⁰ *Ibidem*.

²¹ *Rex v Bourke* 1916 TPD 306.

In this respect, Botha AJ in *S v Johnson*²², leading case until 1981, reached the conclusion that on grounds of public policy, the fundamental requirement of voluntariness does not apply to self-induced intoxication.

Then, voluntary intoxication, even if reducing the accused to a so intoxicated state that he did not know what he was doing except when resulting in mental illness, can never be a complete defence. It can at most exclude the specific intent and reduces the crime charged to a less serious crime.

In the opposite view, Rumpff CJ in *S v Chrétien* led down firstly the different degrees of intoxication between these extremes: the 'dead drunk' and the 'slight drunk'²³. He stated that an uncontrolled act of a 'dead drunk' is not an act for the purpose of the criminal law²⁴. Rumpff CJ went on and stated that if there was a reasonable doubt whether the accused knew the unlawfulness of what he was doing or that inhibitions had substantially disintegrated, he should be given the benefit of doubt. The court reached the conclusion avoided as well as possible, previously by Wessels J²⁵ and later by Botha AJ²⁶.

"What we have to deal with [is] a severe blunting of the capacity to understand the moral quality of the act in issue, combined with a drastic lapse of inhibitions... this closely resembles, if it is not identical, with insanity"²⁷.

²² *S v Johnson supra* n 5.

²³ *S v Chrétien* 1981 (1) SA 1104. The distinction was established by Wessels J in *R v Bourke* 1916 TPD 305.

²⁴ *S v Chrétien Idem*.

²⁵ *S v Bourke* 1916 TPD 305.

²⁶ *S v Johnson supra* n 5.

²⁷ *S v Chrétien* 1981 (1) SA 1105. The court rendered its own the idea found in Hall *General principles of criminal law* at 534 quoted by De Wet and Swaenepoel, *Strafreg* 3rd Ed (n 119).

The most important legal conclusions pointed out in *S v Chrétien* may be outlined as follows²⁸:

- ◆ If the accused is severely intoxicated so that his muscular movements are involuntary, he cannot be found guilty of a crime as a consequence of such muscular movements.
- ◆ Exceptionally, a severely drunken person can completely lack criminal capacity and as a result cannot be criminally liable at all.
- ◆ The 'specific intent' theory when related to intoxication is unacceptable in South African law and must be rejected. This means that intoxication can completely exclude the intention required for a crime.

In rejecting the rule of specific intent established on behalf of public policy, Rumpff CJ said: "[T]here is ... no objection on the grounds of public policy to deviate from the approach followed in Johnson's case... [S]ome one who is totally intoxicated and does not know what he is doing is not criminally liable because a muscular movement performed in this condition does not constitute a criminal act... [then] the accused does not have the criminal capacity..."²⁹ Before this opinion, Rumpff CJ took care to point out what he himself heard by public policy contrarily to that held in *Johnson's* case: "... public policy ([or] the legal conviction of the society) does not demand that the pure systematic legal approach [the protection of the accused right] should be abandoned and that the accused should be punished purely on the grounds that he voluntarily reached such a state of intoxication that he could not perform an act in the legal sense of the word, or that he lacked criminal capacity..."³⁰

purely on the grounds that he voluntarily reached such a state of intoxication that he could not perform an act in the legal sense of the word, or that he lacked criminal capacity..."

²⁸ *S v Chrétien supra* n 4; see also Snyman *Strafreg: vonnisbundel/ Criminal law: case book* (2003) 123.

²⁹ *S v Chrétien supra* n 20.

³⁰ *S v Chrétien supra* n 24.

The Chrétien case was a corrective to the uncertainty of the 'specific intent' rule which prejudiced the individual's position at the expense of protecting society³¹. Johnson was not punished for his offence but for being in a drunken state (the doctrine of *versari in re illicita*)³². Nevertheless, even the effect of the Chrétien case has been criticized because it allowed drunken people to be treated more leniently than the sober people. The reconciling approach has been brought by the legislature in creating the 'offence of statutory intoxication'. However, the court in *S v Chrétien* case did not change the rule related to the case where an accused consumed an intoxicant in order to commit a crime.

1.2. Voluntary intoxication and *actio libera in causa*

In criminal law the *actus reus* must be contemporaneous to the *mens rea*. In other words, there is no crime without a guilty mind. However the principle of *actio libera in causa* seems to run the contrary. The accused is criminally liable for an intention formed while sober and executed when he could not control his conduct because of an intoxicant deliberately taken in order to execute that intention. Two circumstances in which the *actio libera in causa* may be raised are follows³³:

a. The accused deliberately intends to commit a crime and takes intoxicating substances in order to give himself 'Dutch courage' and to go through with the deed in an intoxicated state.

b. The accused foresees or, as a reasonable man,

ought to foresee the possibility that when he is drunk he might become violent but fails to take reasonable precautions to ward off harming others while in intoxicated state.

³¹ Burchell (1981) *SALJ* 189.

³² Burtell & Hunt (1970) 232. For more about this doctrine see Laingui *La responsabilité pénale dans l'ancien droit (XVI^e - XVIII^e siècles)* (1970) 199-202.

³³ Burchell & Milton (1997) 104-105; Burchell (1981) *SALJ* 179.

The first may be qualified as the *actio libera in causa stricto sensu*.

It requires an actual intention to commit an offence.

The accused uses his inebriated body as an instrument for the purpose of committing crime³⁴ for which the intention was formed when he was still sober. Three stages can be identified:

- a. The intention to commit the crime is formed when the accused was sober.
- b. The accused consumed the intoxicant in order to get courage for committing the preformed intention.
- c. The accused commits the crime under the influence of the intoxication.

These steps must be considered as a set. They are cumulative and not alternative. For instance *actio libera in causa* should not be conceivable if the accused: (1) preformed the intention to kill Y after being intoxicated but 'unfortunately' did it before or after the intoxicated state, (2) acts under the influence of alcohol or whatever intoxicant but without any preformed criminal intention, (3) preformed the criminal intention (even premeditated) and get drunk in order to commit the crime but became for any reason (weakness, fear or rationality) in the way of non acting.

Nevertheless, the criminal liability is questioned for the accused who, even if he preformed the criminal intention and acted in accordance with this, was so intoxicated that he did not know what he was doing. Is he guilty whereas he acted like an automaton? South African law has already held that self-induced intoxication with the purpose of committing crime can never be a defence or a ground of punishment mitigation³⁵.

³⁴ Snyman (2002) 223.

³⁵ *S v Ndlovu* 1965 (4) SA 692 (A); *S v Lombard* 1981 (3) SA 198 (A).

In *S v Lombard*³⁶ the trial stated that: "notwithstanding the high alcohol content of appellant blood when he committed the offence, he **nevertheless knew what he was doing and [...] he had intention to kill the deceased.**" Here the legal issue is not the accused criminal capacity because it is scientifically obvious that with 0,29g to 0,31g per 100 ml alcohol in blood, the accused would not know what he was doing³⁷. The focal point is that even if the accused did not know what he was doing, he is 'presumed to know what he was doing' because he preformed the *mens rea* and the *actus reus* had already begun in looking for 'Dutch courage' by taking an intoxicant. "[...] the wickedness of his mind before he got drunk coupled with the act which he intended to do and did do is enough to condemn him", stated Lord Denning in *Gallagher*³⁸. The taking of an intoxicant is a transitional phase in the execution of a criminal work plan.

It is obvious that in such a case the criminal liability "flows from the fact that the *actus reus* consists in the setting in motion of causal train of events which results in the commission of the crime and at that initial stage, the accused has the necessary criminal intention."³⁹ In *S v Lombard*⁴⁰ the court stressed this view in holding that: "... because of the appellant's conduct **before, at the time of and after** the attack [it is obvious] that the appellant knew what he was doing and ... he had the intention to kill ...". Here, intoxication is described as one of the elements of the crime. The fact that the accused acted involuntarily does not lead to exonerate his criminal responsibility. He is guilty even if, for any reason, instead of killing Y he has killed Z.

Moreover, the *actio libera in causa* should be extended to cases of antecedent legal intention, negligence and to cases not involving intoxication.

³⁶ *Ibidem*.

³⁷ *S v Hartanyi* 1980 (3) SA 613 (A) at 616. It is submitted that such person is in a state of "diencephalons" progressively characterized by "apathy, inertia, tremors, cessation of automatic movements, sweating and dilatation of surface capillaries, stupor and [finally] coma". See Cooper et al *Alcohol, drugs and road traffic* (1979) 147-157.

³⁸ *Attorney General for Northern Ireland v Gallagher* [1961] 3All E R 299 [HL].

³⁹ *Burdell & Hunt* (1970) 226.

⁴⁰ *S v Lombard* 1981 (3) SA 198.

Du Plessis has called it the 'negligent *actio libera in causa*'⁴¹. It could be applied to an accused who becomes severely and deliberately intoxicated knowing that he will drive a car and once in this state collides with a pedestrian who is killed. This case is also brought closer to the failure of taking reasonable precautions to avoid harming others while knowing to be prone to violence or easily provoked to it once intoxicated⁴². But it seems that the criminal liability in these cases is based more on the lack of foresight⁴³ than on intention, legally speaking. The accused neglects only to take necessary precautions but he preformed any intention. If not, would the driver be guilty of culpable homicide instead of murder as suggested by Burchell & Milton⁴⁴ while the *actio libera in causa* is never a defence or a mitigating factor? Why would he be guilty of culpable homicide if he intended to kill Y and deliberately consumed the extra drink in order to get courage for killing the deceased with his car?

With due respect, to apply the *actio libera in causa* to such cases, it is both a mistaken extension and an erroneous interpretation of that principle. The error has begun by its erroneous application in *S v Baartman*⁴⁵ where the court wrongly⁴⁶ basing its decision on the Chrétien case held: "It is wrong to convict someone if he committed an offence while totally non-accountable [...], even if he had resolved to commit such offence whilst sober." In justifying its mitigation of sentence the court stated that: "In such a case [the accused] might be guilty of an attempt to commit such an offence because he already formed the necessary intent and had already begun certain actions in execution thereof." This sentence proves how much the case was not less an *actio libera in causa stricto sensu*. The intoxication should not be considered separately from the offence. The court used the definition provided by the principle but did not reach the verdict foreseen by it..

⁴¹ Du Plessis "Has it become necessary to consider the negligent *actio libera in causa*?" (1983) 5784.

⁴² Burchell & Milton 105.

⁴³ Burchell (1981) SALJ 185.

⁴⁴ Burchell & Milton *Ibidem*.

⁴⁵ *S v Baartman* 1983 (4) SA 395. For a more critical view see Snyman (2002) 223 (n 306).

⁴⁶ In *S v Chrétien* (*supra* n 24), Rumpff CJ stated that: "the case where an accused consumed alcohol in order to be able to commit a crime is of course not in question here."

All the same the *actio libera in causa* is both the elements of its definition and the consequence of that definition. This shows how much courts have difficulty to find the specific and fair meaning of the so-called 'negligent *actio libera in causa*' and how much the antecedent legal intention, the negligence and cases not involving intoxication do not fit with *actio libera in causa*. In *S v Johnson* even if it was proved, the Court did not consider as an *actio libera in causa* the fact that the accused knew or ought to know that he was violent once under the influence of alcohol⁴⁷. In this case there was not antecedent liability which is the base of criminal responsibility for *actio libera in causa*⁴⁸. There is antecedent liability if the offender knew or ought to know that due to some mental defects such as epilepsy, mental illness or other infirmity he or she would commit an offence but neglected to take cautious measures. The voluntary act that started when the offender could control himself/ herself culminated in a causal chain of vents leading to harmful and unlawful results⁴⁹.

There is *actio libera in causa* when a person gets drunk deliberately in order to commit a crime. Such person is guilty of committing crime even though at the time he commits the crime he acted involuntarily because of intoxication and must be blamed in the same manner⁵⁰ as or mostly⁵¹ than a person who intentionally commits a crime.

1.3. Intoxication causing automatism and negligent intoxication

Intoxication causing automatism

Automatism can be defined as "the state of a person who, though capable of action, is not conscious of what he is doing... It means unconscious involuntary action."⁵² Whatever be the reason of the unconsciousness the accused cannot be said to act either intentionally or negligently.

⁴⁷ *S v Johnson supra* n 5; See also Burchell (1981) *SALJ* 179.

⁴⁸ Snyman (2002) 223 (n 306).

⁴⁹ Snyman (2002) 58.

⁵⁰ *Ibidem*.

⁵¹ *S v Ndlovu* 1964 (4) SA 692 (A).

Intoxication has been classified in the same group with provocation, concussion, black-out, dissociation, somnambulism, hypnosis, epilepsy and hypoglycemia⁵³. The law contented to distinguish⁵⁴ between the 'sane automatism' with which we are dealing here from the 'insane automatism' that is the following section.

Prior to *Johnson's* case, South African courts had held that self-induced intoxication which led to a degree of automatism may entitle an accused to an acquittal⁵⁵. In *S v Johnson* and few years before, self-induced automatism by intoxication may not affect the accused's guilty but it may be a factor for the sentence mitigation⁵⁶. Nowadays, the acts done by a blind drunk are not different from those of a somnambulist and both are not criminal. "In the case of the involuntary muscular spasms of someone who is totally drunk, there is no question of control and it is unnecessary to philosophize about culpability... Nor does criminal capacity come into play here", has said Rumpff CJ⁵⁷.

Equally, in *S v Stellmacher* the accused who worked hard the whole day without eating had consumed a greater part of a bottle of Brandy in the bar in the evening. He had already shot four bullets by random before killing the deceased who entered in the same bar for buying wine. The accused raised the defence of insane automatism because he remembered only looking at sunlight shining through a bottle and had forgotten what he did until he woke up the following day. The court stated that insane automatism was not medically proved; but that since the accused could reasonably have acted in a state of sane self-induced automatism at the time of killing he was not criminally liable⁵⁸.

⁵³ For a general consideration see Burchell & Milton 102-106.

⁵⁴ Nyman (2002) 163; Van Oosten (1990) 1 SACJ 3.

⁵⁵ See *R v H* 1962 (1) SA 197 (A).

⁵⁶ See *S v Kedler* 1967 (2) SA 644 ; *S v Johnson supra* n 5.

⁵⁷ *S v Chrétien supra* n 20.

⁵⁸ *S v Stellmacher* 1983 (2) SA 181.

Rumpff CJ warned that "someone may be described as 'very drunk' but nevertheless act in a way that seems quite rational. He himself may forget what he had done, but this does not mean that his mind did not control his acts even though his inhibitions might have blunted [sic] by the alcohol."⁶⁰ Here the court was trying with difficulty not to leave the voluntary intoxication at an 'unlocked door' leading to an unconditional defence. The state of automatism must be proved on a preponderance of probabilities by the accused. The State has in its favor the presumption that, as a normal person, the accused was sane when acting⁶¹.

b) Negligent intoxication

A person acts negligently when he does not exercise the reasonable care expected from the standard of the reasonable man in society⁶². In relation to intoxication the following cases may be drawn: (a) the accused voluntarily get intoxicated in ignoring the effect of the intoxicant that he was taking, (b) the accused get intoxicated but did or could not foresee that the intoxicant can lead him to be incapable to distinguish between right and wrong, (c) the accused get intoxicated knowing that intoxication may cause his temporary insanity.

The first is the case of an inexperienced drinker whereas the second accused assumed to know when to stop drinking. If one of them is charged with a crime requiring negligence as sufficient *mens rea* (i.e. culpable homicide), the mere fact that he was intoxicated at the material time of the offence is enough for finding him negligent. For illustration, in *S v Ndlovu* the court found that the youth coupled with intoxication had led the accused in a strange way of committing crime which he could not commit if he was sober⁶³. In *S v Ndiwene*, the accused did not master the effect of the dagga randomly bought and taken.

⁶⁰ *Ibidem*.

⁶¹ *R v Kookakani* 1947 (1) AD 807.

⁶² *S v Ngubane* 1985 (3) SA 677 (A).

⁶³ *S v Ndlovu* 1965 (4) SA 692.

He began by becoming violent in breaking the furniture in his sister's kraal. He asked to marry a very old woman whereas he was a youngish man. It seemed irrational. The accused assaulted the old woman in striking her with an iron bar and killed her. The court (Greenfield J) stated as follows:

"In the present case, it is clear that the accused had taken this drug, dagga, voluntarily. He had no apparent motive for the killing, [...] his behavior at his sister's kraal was completely irrational. We come to the conclusion that what he did was done as a result of intoxication produced by the drug. We are unable to say what intention he had at the time, if any, and in these circumstances we hold him guilty of culpable homicide."⁶⁴

For the third kind of negligence not involving intoxication strictly speaking or of an absent-mind, we can take an example of an accused who suffers from diabetes and under insulin treatment. When he fails to eat, well-knowing that that failure to eat could bring him in a state of hypoglycemia, and commits a crime in such state, he cannot raise insane automatism. Since the crime happened in a state caused by failure to eat rather than the diabetes itself, there is no a disease of mind⁶⁵. However, if the accused acted in a state of insanity, he should be not guilty even if such state was brought about by his negligence⁶⁶.

Finally, an intoxicated accused can claim that a mistake has been made with the lack of the *mens rea*. He can claim the lack of intention to kill because he believed shooting at a tree. He can believe also in an erroneous threat and accordingly act in the way of an unjustified self-defence and harm others because he himself believed he was under attack. It has been suggested that in crimes requiring intention, the mistake of the accused to appreciate rightly the material circumstances or facts may exclude the *mens rea*⁶⁷.

⁶⁴ *S v Ndlovu* 1971 (3) SA 260.

⁶⁵ Seago *Criminal law* (1989) 169-170.

⁶⁶ *Infra* (I.4.). It is argued that "in most cases of intoxication, there will be no question of the accused being found to be legally insane. Where, however, the alcohol or drugs have produced a more than transitory effect on the accused's mind, it would be possible for the court to hold that he was insane." Seago 170.

⁶⁷ CR Snyman (2002) 227.

1.4. Intoxication as a cause of insanity

Drunkenness except where it leads to a state of insanity will not serve as a defence⁶⁸. To the question "is absolute drunkenness equivalent to insanity?"⁶⁹ Wessels J has already answered by "Not"⁷⁰. Drunkenness is one thing and mental illness to which it leads another thing⁷¹. Once mental disorder that negates criminal capacity is established, the cause of the disorder is irrelevant. An insane person is criminally incapable whether the insanity is caused by drunkenness or otherwise, has held the Appellate Division in *Rex v Holliday*⁷².

When the accused is in a state of *delirium tremens* brought about by a chronic consumption of alcohol, this mental disease will be dealt with under the law relating to insanity⁷³. According to s 78 (1) of the Criminal Procedure Act⁷⁴ as amended until today:

"A person who commits an act or makes an omission which constitutes an offence and who at the time of such commission or omission suffers from mental illness or mental defect which makes him or her incapable: of appreciating the wrongfulness of his or her act or omission; or of acting in accordance with an appreciation of the wrongfulness of his or her act or omission, shall not be criminally responsible for such act or omission."

⁶⁸ *S v Johnson supra* n 5.

⁶⁹ *Rex v Bourke* 1916 TPD 306.

⁷⁰ *Ibidem, Rex v Kankakany* 1947 AD 813.

⁷¹ *Rex v Holliday* 1924 AD 250 & 260; *S v Johnson supra* n 5; From this it follows that South African law has rejected the doctrine of the **disease model** that considers alcoholism as an abnormal mental condition and adopted the **habit model** that views alcoholics as involved in a normal human process but making bad choices. For this conceptualization see CM Clarkson & HM Keating 427.

⁷² *Rex v Holliday Ibidem*. Previously in *Rex v Bourke (supra* n 22) Innes CJ has held that in such case the right verdict would be one of "guilty but insane" which is equivalent to a verdict of "Not guilty" (at 304). Today some writers still consider that a mentally ill accused under divine blessings or satanic instructions can foresee and reconcile himself with the unlawfulness of his conduct but he considers it as morally justified. See Van Oosten "The insanity defence: its place and role in the criminal law" (1990) SACJ1 p 3. It follows that such accused has a criminal intention. However it seems that an accused who, because of divine blessings, satanic instructions or whatever else considers his friend with him they sit as a dangerous serpent and bring a machete stabs him and kills him could not be said to have intention because his satanic instructions or divine blessings have morally justified his act. In such case, the accused cognitive functions should be appreciated according to the standards behavior of a normal human being. See Burhell & Hunt 172. Instead of "guilty but insane" the right verdict should be "not guilty by reason of insanity". See Strauss *Doctor Patient and the law* (1991) 132.

⁷³ Mental Health Care Act 17 of 2002 (South Africa).

⁷⁴ Act 51 of 1977 (South Africa).

However the disturbance of the accused's mental faculties can be irregular in such an extent that he can be mentally ill or defective before and/or after acting. In *Rex v Holliday*⁷⁵, Kotzé AJ held that "the accused, whose mind is temporarily diseased so that he is wholly unable to control his action or conduct, will not be guilty of any crime." This section applies only when the accused insanity existed at the time of the commission or omission of the offence⁷⁶. If it is proved that the accused acted under the influence of both insanity and intoxication, the court must find the accused not guilty. It is suggested that "where it cannot be determined whether intoxication or insanity was the cause of the accused's criminal incapacity, the accused should be [...] completely acquitted."⁷⁷ Although the prosecution has been allowed to prove the accused's insanity on the ground of the justice interest⁷⁸, the burden of proof is on the accused on a balance of probabilities⁷⁹. The test for criminal incapacity by reason of insanity and intoxication incorporates psychiatric and psychological elements⁸⁰.

II. INVOLUNTARY INTOXICATION AS A COMPLETE DEFENCE

There is involuntary intoxication when the accused consumed unconsciously or unwillingly an intoxicant. If the accused committed the crime in a state that he could not know what he was doing because of involuntary intoxication, he is not guilty and has a complete defence on the ground of involuntary intoxication⁸¹. The accused can be involuntarily intoxicated by force or fraud of a third person or by his self-inadvertence.

II.1. Involuntary intoxication by the intervention of third person

The defense of involuntary intoxication is founded on the fact that many people have secret urges for committing crimes but they exercise a self-control and restraint on their inner behavior. If a person is secretly, maliciously or forcibly intoxicated by someone else so that he cannot control his conduct, he should not be responsible of the act committed in such state because he could not prevent it⁸².

⁷⁵ *Rex v Holliday* *supra* n 68.

⁷⁶ *Ibidem*.

⁷⁷ Van Oosteren, "Non-pathological criminal incapacity versus pathological criminal incapacity" (1993) SACJ 131&135.

⁷⁸ *S v Holliday* *ibidem*.

⁷⁹ S 26 (b); for relevant authorities see Snyman (1995) p.162 (026).

⁸⁰ Van Oosteren (1993) SACJ 131& 135.

⁸¹ *S v Harrison* 1980 SA 613.

⁸² Snyman (2002) 222.

However the effect of intoxication must destabilize the accused character for raising it as a complete defence⁸³. It was suggested that in such a case "the real blame should be directed at the third party" who intoxicated the accused⁸⁴. The criminal intention belongs to the third person who acted through the intoxicated accused.

II.2. Involuntary intoxication by the accused's inadvertence

An accused can be involuntarily intoxicated all being aware of taking an intoxicant. If a young girl because of emotional reasons (love, shame, fear or pity) shares an intoxicant with her lovely boyfriend and becomes severely intoxicated; can she raise to be involuntarily intoxicated? If the accused has confused a glass of Sprite and one of Brandy and took the latter instead of the former or if he acted after taking an overdose of medicines, can he say that he was involuntarily intoxicated? It has been answered that the accused is "involuntarily intoxicated even if a mistake has been made about the strength [or the effect] of the [substance] taken."⁸⁵ The answer should be the same in a case of intoxication due to emotional reasons. It is considered that the accused is negligent and the intoxication was self-induced⁸⁶. In the case where the accused has taken medically prescribed drug or drugs for therapeutic reasons without warning for its destabilizing or undesirable effects, he has the benefit of the defence of involuntary intoxication.

III. THE EFFECT OF STATUTORY INTOXICATION: A REESTABLISHMENT OF JOHNSON'S CASE

As invoked already, the crime of statutory intoxication has been created by the Criminal Law Amendment Act 1 of 1988. Before dealing with the limits of this Act, its purpose and area of application will be discussed.

⁸³ Clarkson & Keating 425.

⁸⁴ *Ibidem*.

⁸⁵ Simister & Sullivan 567.

⁸⁶ Taylor & Hungerford-Welch *Sourcebook on criminal law* (1997) 234-235.

III.1. The ratio legis and area of application of statutory intoxication

In *S v Chrétien* case the court adopted a "pure legal approach"⁸⁸ according to which an accused cannot be criminally liable if, at the time he acted, he was so drunk that he could not know what he was doing⁸⁹. The court rejected both the punishment based on the ground of public policy and the English "specific intent" theory⁹⁰ according to which a "drunken intent is an intent."⁹¹ It followed that sober persons could be punished for criminal conduct while the same conduct was excused for drunkards merely because they were voluntarily drunk. It was yet remarked that "what some might see as a welcome repudiation of a flawed theory, others will see as an invitation to take the law in their own hands."⁹² This could lead to a more preferential treatment for drunken accused than for sober people⁹³. From these critics even supporters of the application of pure legal theory in *S v Chrétien* expressed the opinion that because the law left the community without protection against intoxicated accused, it was imperative for the Parliament to create an offence of statutory intoxication⁹⁴.

As a reaction to that Chrétien rule according to which voluntary intoxication is a complete defence to any crime, the legislature passed the aforesaid Act of which the s1 reads as follows:

(1) "Any person who consumes or uses any substance which impairs his or her faculties to appreciate the wrongfulness of his or her acts or to act in accordance with that appreciation, while knowing that such substance has that effect and who while such faculties are thus impaired commits any act prohibited by law under any penalty, but is not criminally liable because his or her faculties were impaired as aforesaid, shall be guilty of an offence and shall be liable on conviction to the penalty which may be imposed in respect of the commission of that act.

⁸⁷ *Ibidem*

⁸⁸ Snyman (2002) 229.

⁸⁹ *S v Chrétien supra* n 4.

⁹⁰ *Ibidem*.

⁹¹ *DDP v Majewski supra* n 3.

⁹² Paizes (1998) SALJ 776.

⁹³ Snyman (2003) 126.

⁹⁴ A Rabie *A Bibliography of South African Criminal law- general principles* (1997) 60.

2) "If in any prosecution for any offence it is found that the accused is not criminally liable for the offence charged on account of the fact that his faculties referred to in subsection (1) were impaired by the consumption or use of any substance, such accused may be found guilty of subsection (1), if the evidence proves the commission of such contravention.

This section permits courts to apply the same sentence on a defendant who was intoxicated at the time of the crime as it would impose it on a sober accused committing the same offence in the same conditions. The prosecution must prove beyond a reasonable doubt the following elements: "(i) the consumption or use of an intoxicating substance by the accused, (ii) the impairment of his or her faculties, (iii) the accused's knowledge of its effects, (iv) the commission of an act prohibited by law whilst his or her faculties were so impaired, (v) a somewhat inconsequential element namely that the accused is not criminally liable because his or her faculties are so impaired."⁹⁵ From these requirements it follows that this section does not apply to the following situations:

III.2. Involuntary intoxication

We have already expressed the reasons why in *S v Hartyani*, the court ruled that involuntary intoxication is always a defence⁹⁶. It is argued that in making any reference to "involuntariness" in s 1 the legislature did not intend to worsen the position of the involuntarily intoxicated accused⁹⁷. The fact that the accused has abstract knowledge of the intoxicating effect of the substance does not lead to voluntary intoxication in terms of s 1(1). The legislature intent should always prevail and therefore the phrase "... while knowing that such substance has that effect" must be literally interpreted⁹⁸.

The main charge

If all requirements of s 1 (1) are complied with, the accused is convicted of a separate crime. He is not guilty of having committed the main crime. The prosecution has to prove that because the accused faculties were so impaired at the time of the crime he is not guilty on the main charge but guilty of contravening s1.

⁹⁵ *S v Louge* 1989 (1) SACR 199 (W).

⁹⁶ *S v Hartyani* 1980 (3) SA 613.

⁹⁷ Paines (1998) SALJ 784.

⁹⁸ *Ibidem*; Snyman (2002) 228 & 232.

Automatism and absence of intention

According to the *Chrétien* case, voluntary intoxication is a complete defence if the accused: (i) was not capable of acting voluntarily, (ii) lacked criminal capacity or (iii) was not capable of forming the required intention for such crime⁹⁹. From the terms of s 1 it is obvious that the first and the third possibilities are not covered by the amendment. In referring only to the lack of capacity, the legislature intended to exclude the situations in which the accused could not perform a voluntary act (automatism) or lacked the required intention¹⁰⁰. For the latter, it is submitted that the repetitive use of the word "faculties" instead of "knowledge", "know" or "being aware of" means that the legislature did not intend to deteriorate the effect of mistake on liability and kept intact the absence of knowledge as a defence even if such absence results from intoxication¹⁰¹. Otherwise the legislature could have specifically mentioned the term 'knowledge'. For automatism, a large interpretation leads to the question: why could the legislature cover the lack of capacity and ignore automatism which is more intense than the former?¹⁰² It was held that an automaton accused lacks also capacity¹⁰³.

III.3 The limits of the Criminal Law Amendment Act 1 of 1988

Although the aim of this act is to reconcile the accused justice with the community justice several reproaches against either its content or its formulation have been pointed out. Firstly the Act does not deal with crimes by omission because of its repetitive referral to the term "act". An intoxicated accused who did not comply with his legal duty should not be criminally liable. The accused must have acted, literally speaking and not legally speaking.

⁹⁹ *S v Chrétien supra* n 4.

¹⁰⁰ Paizes (1998) *SALJ* 785; Snyman (2002) 231.

¹⁰¹ Snyman (2002) 227 & 231.

¹⁰² Paizes (1998) 785; Snyman (2002) 231.

¹⁰³ *S v Ingram* 1999 (2) SACR 127.

The term "act" cannot be widely interpreted for covering even acts by *omissio* because in criminal law the rule is "restrictive interpretation"¹⁰⁴.

Secondly, the Act does not close all loopholes created by the Chrétien case. An accused who lacked intention is still acquitted on the main charge and on the contravention of s1¹⁰⁵.

Thirdly, in departing from the pure legal theory ruled by the court in Chrétien, the legislature came statutorily to the doctrine of *versari in re illicita* which has been critically attributed to the Johnson's judgment¹⁰⁶. It is a reestablishment of the Johnson's rule where the accused was not liable for his deed but for being drunk.

Fourthly, the offence of statutory intoxication is extremely wide. It fails to distinguish between crimes that require a cognitive mental element and those which do not. The crimes of violence (such as murder) and one of dishonesty or infringement of another's property (such as theft) are on the same level while the interest of the community is not the same in punishing both categories¹⁰⁷. The legislature has gone too far. The s 1 should be restricted to crimes of violence.

¹⁰⁴ See Snyman (1995) 55-59.

¹⁰⁵ Maré 1103.

¹⁰⁶ Snyman (2002) 229 (n332).

¹⁰⁷ Snyman (2002) 229; Páizes (1998) *SALJ* 778.

Finally, section 1 "is *unworkable, illogical and inconsistent*."¹⁰⁸ If the state fails to convince the court that the accused is not criminally liable on the main charge, "the accused would have to be acquitted on both the main charge as well as the implied charge of statutory intoxication"¹⁰⁹ In *S v Mbele*, the court held that: " In the [...] case where there was uncertainty as to the accused's state of intoxication the state had not proven that the accused's faculties were impaired and he [the accused] could accordingly not be convicted of an offence of contravening s1(1)."¹¹⁰

¹⁰⁸ Paizes (1998) SAL7776.

¹⁰⁹ Maré 1103.

¹¹⁰ *S v Mbele* 1991 (1) SA 307.

Conclusion

In short, one should know that although involuntary intoxication excuses any crime committed in such state¹¹¹, a voluntarily intoxicated person had always been criminally liable unless the intoxication resulted in insanity¹¹². However, an accused deliberately intoxicated for getting 'Dutch courage' in order to commit a crime could and can never be excused. The intoxication is an aggravating factor even if such accused has killed a third person instead of killing Y. Such case of *actio libera in causa* does not fit with *dolus eventualis*, *culpa* or cases not involving intoxication whether because of lack of antecedent liability or because intoxication as a transitional phase in a criminal work plan is absent.

In South Africa, before 1981 the ground of public policy and the British 'specific intent' rule¹¹³ which were the strongest arguments for the criminal liability have been interpreted as a reestablishment of the rejected old doctrine of *versari in re illicita*¹¹⁴ according to which the accused was not punished for his deeds but "purely on the ground that he

[voluntarily] ... lacked criminal capacity."¹¹⁵ For the first time, in *S v Chrétien* the court rejected those rules and held that voluntary intoxication can be a complete defence to any crime if the accused acted involuntarily (automatism), lacked criminal capacity or lacked the intention¹¹⁶.

¹¹¹ *S v Hartmann* 1980 (3) SA 613 (A).

¹¹² *S v Johnson supra* n 5.

¹¹³ *DDP v Majewski supra* n 3.

¹¹⁴ Snyman (2002) 229; Bruchell (1981) *SALJ* 179- 180.

¹¹⁵ *S v Chrétien supra* n 24.

¹¹⁶ *S v Chrétien supra* n 4.

The effect of the Chrétien judgment has been criticized for treating drunkards more leniently than sober people. It was submitted that allowing form to triumph over justice, the court has entitled drunkards to take the law in their own hands¹¹⁷. From this gape in law, the legislature passed the crime of 'statutory intoxication' through the Criminal Law Amendment Act 1 of 1988 of which section 1 has had the merit of considering voluntary intoxication at least either as a mitigating or an aggravating factor¹¹⁸. Despite this merit, the limits of this act lead lawyers to consider that it is time to amend the Criminal Law Amendment Act 1 of 1988 in order to make symmetry between the reflection of current needs of society and the spirit behind it. All these situations are either vaguely provided for or merely inexistent in Rwandan criminal law. Since it is only exceptional for courts to develop domestic jurisprudence in making laws under article 144 of the 2003 Constitution¹¹⁹, Rwandan legislature should also take steps of clarifying the law of intoxication. This requires a specific and comprehensive study that will be the second part of this one.

¹¹⁷ Paizes (1998) *SALJ* 776.

¹¹⁸ Burchell & Milton 271 & 272; Maré 1103.

¹¹⁹ Constitution of the Republic of Rwanda of 4th June 2003 as revised today.

Bibliography

1. Acts of Parliament

The Constitution of the Republic of Rwanda as revised today in Official Gazette no special of 4th June 2003

Decree - Law no 21/77 of 18 August 1977 governing the penal code of Rwanda as modified and completed today in Official Gazette no 13bis of 1978

Criminal Law Amendment Act 1 of 1988 (South Africa) available at www.info.gov.za [6th November 2009]

Mental Health Care Act 17 of 2002 (South Africa) in Government Gazette, vol. 449, no 24024 of 6th November 2002

Criminal Procedure Act 51 of 1977 (South Africa) available at www.info.gov.za [6th November 2009]

2. Cases

Attorney General of Northern Ireland v Gallagher [1961] 3 ALL. ER 299 (HL)

1. *DPP v Kingston* [1995] 2 AC 369
2. *DPP v Majewski* [1977] AC 443
3. *Ex Parte De Winaar* 1959 (1) SA 836
4. *Kamipeli* (1975) 2 NZLR 610 (CA)

5. *Kamipeli* (1975) 2 NZLR 610 (CA)
6. *R v Bourke* 1916 TPD 306
7. *R v Daviault* (1995) 93 CCC (3d) 21 (SCC)
8. *R v Innes Grant* 1949 SA 753
9. *R v Kaukakani* 1947 (1) AD 807
10. *Rex v Holliday* 1924 AD 250
11. *S v Baartman* 1983 (4) SA 395
12. *S v Chrétien* 1981 (1) SA 1097 (A)
13. *S v H* 1962 SA 197
14. *S v Hartyani* 1980 (3) SA 613 (T)
15. *S v Ingram* 1999 (2) SACR 127 (W)
16. *S v Johnson* 1969 (1) SA 201 (A)
17. *S v Kedler* 1967 (2) SA 644
18. *S v Lange* 1989 (1) SACR 199 (W)
19. *S v Lombard* 1981 (3) SA 198 (A)
20. *S v Mbele* 1991 (1) SA 307
21. *S v Ndiwene* 1971 (3) SA 260
22. *S v Ndlovu* 1965 (4) SA 692
23. *S v Ngubane* 1985 (3) SA 677 (A)
24. *S v Stellmacher* 1983 (2) SA 181
25. *The Queen v O'Connor* (1980) 29 ALR 449

Textbooks

- Burchell CM & Hunt PMA(1970) *South African criminal law and procedure- general principles of criminal law* Cape Town: Juta
- Burchell CM & Hunt PMA(1997) *South African Criminal law and procedure- general principles of criminal law* Cape Town: Juta
- Burchell JM & Milton J(1997) *Principles of criminal law* Ndabeni: Juta
- Clarkson CMV & Keating HM (2003) *Criminal law: text and materials* London: Sweet & Maxwell
- Cooper WE et al (1979) *Alcohol, drugs and road traffic* Cape Town: Juta
- Cross Jones & Card (1998)*Introduction to criminal law* London: Butterworths
- Hungerford-welch P & Taylor A (1997) *Sourcebook on criminal law* London: Cavendish Publishing Limited
- Laingui (1970) *La reponsabilité pénale dans l'ancien droit (XVI- XIIIe siècles)* Paris: LGDJ
- Loewy AH (2000)*Criminal law in a nutshell* USA: West Group
- Maré MC "Criminal law" in Hosten WJ (1995) et al *Introduction to South African law and legal theory* Durban: Butterworths
- Pradel J (1996) *Droit pénal général* Paris: Cujas
- Rabie A (1987) *A bibliography of South African criminal law - general principles* Cape Town: Juta
- Seago P (1989) *Criminal law* London: Sweet & Maxwell
- Sinister AP & Sullivan GR (2003)*Criminal law: theory and doctrine* Oxford: Portland Oregon
- Snyman CR (1995)*Criminal law* Durban: Butterworths
- Snyman CR (2002)*Criminal law* Durban: Butterworths
- Snyman CR (2003)*Strafreg vonnisbundel/ Criminal law casebook* Lansdowne: Juta
- Stuart D (1995)*Canadian criminal law: a treatise* Ontario: Carswell

Journals

- Burchell JM "Intoxication and the criminal law" (1981) *South African Law Journal* 177
- Du Plessis JR " Has it become necessary to consider the negligent actio libera in causa?" (1983) *Speculum Juris* 84
- Paizes A " Intoxication through the looking-glass" (1998) *South African Law Journal* 176
- Van Oosten FFW " The insanity defence: its place and role in the criminal law" (1990) *South African Journal of Criminal Justice*1
- Van Oosten FFW "Non-pathological criminal incapacity versus pathological criminal incapacity" (1993) *South African Journal of Criminal Justice*127

**GENDER IMBALANCE IN SECONDARY AND TERTIARY
EDUCATION AND ITS EFFECTS ON THE SOCIO-ECONOMIC
WELFARE OF RURAL HOUSEHOLDS IN RWANDA:
A CASE OF NYAKIRIBA SECTOR, RUBAVU DISTRICT**

Nyiransabimana Venantie

B.SC. (SOC) U.L

M.A (Gender and Development) KIU

ABSTRACT

The study examined "Gender imbalance in secondary and tertiary education and its effects on the socio-economic welfare of rural households in Rwanda using Nyakiriba sector, Rubavu District as a case study." A self-administered and directly questionnaire were used as the main methods of data collection. Nevertheless, interview, observation and documentation review were used to compliment, supplement and validate data collected through the questionnaire. 348 households out of the 3700 households of Nyakiriba Sector and 12 civil servants were studied. The study made three important discoveries.

First, the population of Nyakiriba Sector is aware of the importance of educating women. They know that education for a woman improves family health and the welfare of the family; it increases economic productivity; enables education of children; reduces dependency on men and enables women to participate in decision making.

Second, the study revealed that the main causes of gender imbalance in secondary and tertiary education are: poor academic performance; marriage and pregnancy; poverty; culture and beliefs; parents' level of education and even husband and children hinder some women from going on with their studies after getting married.

Third, the study further found that gender imbalance in secondary and tertiary education has negative effects on the socio-economic welfare of rural households which include: lower level of economic productivity and low income; high infant and maternal mortality rates; high birth rates; and lower level of education for children particularly the girl child. This research concludes with a number of recommendations for both future interventions and further research.

I. Introduction

Several reports have confirmed the gender imbalance in many domains around the globe. Many voices have therefore been raised, pleading in general for gender balance and, in particular gender balance in high education. Even though there has been focus on the education of women for decades, women still have unequal opportunities, in terms of less access to and less participation in the educational system.

According to UNESCO Institute for Statistics, (2008), gender disparities tend to increase at higher levels of education. Approximately 63% of countries with available data have achieved gender parity at the primary level of education, compared with 37% at the secondary and less than 3% at the tertiary level.

It is in this context that the researcher, wanted to carry out a research on gender imbalance in secondary and tertiary education and its effects on the socio-economic welfare of rural households in Rwanda using Nyakiriba sector, Rubavu District as a case study.

1.1. Background of the study

In most societies, women are important productive agents in the economy. In addition to that, they take the primary responsibility within families for the education and health of their members.

It is disheartening, however, that many developing countries undervalue women's actual and social advancement; some actively discriminate against them. In many societies, cultural biases against women suppress their ability to contribute to the economy (Newman, 1999).

Education is one of the most important sources of opportunity in any culture because it is associated with many of life's chances: the kind of jobs people have, the amount of money they make, their level of political influence, and even their health. Yet, an estimate of 965 million people— a quarter of the world's adult population cannot read and write: of these, about two thirds are women (Lips, 2000).

In developing countries, especially in Africa, women still suffer from serious differences in literacy and school enrolment. Recently, there has been a global push toward redressing this imbalance. Improving girls' access to education with the goal of attaining gender equality is a critical component of promoting development and meeting the Millennium Development Goals (MDGs), across Sub-Saharan Africa and around the world.

Educating women is fundamental to economic development and poverty reduction within the region, to promoting women's human rights, and is intrinsically linked to improving other development indicators, such as reducing maternal and child mortality rates, reducing birth rates, and improving basic health indicators of entire families. Educating girls is also instrumental in the fight against HIV/AIDS.

Although the importance of educating girls is widely recognized, girl children continue to lag behind boys in terms of enrolment rates, completion rates, and performance in school (Allison & Randell, 2007).

In Rwanda, women have limited access to education. Only 47.8 percent of women are literate, compared to 58.1 percent of men. In terms of access to primary school, there are no major distortions.

Nonetheless, the rates for being held back and dropping out continue to be higher for girls than for boys. The drop-out rate for girls is 15.2 percent, compared to 7.9 percent for boys. These imbalances are even more pronounced in rural areas.

A small proportion of girls and women reach university, and the academic performance of girls is far below that of boys, especially in the areas of sciences and technology (Ministry of education, 2008). After the 1994 genocide, Rwanda's new government made a commitment to strengthen its higher education system as part of its overall development strategies for the country.

Although gender imbalance is a global issue, several studies have been conducted in other parts of the world, and none has put a special emphasis on the gender imbalance in secondary and tertiary education and its impact on socio-economic welfare of rural households. This study, therefore, attempted to fill the gap by investigating the gender imbalance in secondary and tertiary education in rural areas of Rwanda precisely in Nyakiriba Sector, in Rubavu District.

1. 2. Statement of the Problem

Rwanda in general and Nyakiriba Sector in Rubavu District in particular, face real challenges in relation to gender imbalance in Secondary and Tertiary education.

It is appreciable that boys and girls almost have equal access to enrolment in primary schools, and the Government of Rwanda has invested and made enormous strides forward in improving access of boys and girls to education at all levels, and improving gender equality within the education system.

However, it is surprising and disheartening to learn that girl students continue to lag behind in educational achievements and access, particularly at the Secondary and Tertiary levels, where girls' enrolment, completion and achievement rates continue to be lower.

According to Rwanda's Ministry of education statistics, only 20.0% of girls pass primary six exams, compared to 31.6% of boys (MINEDUC Statistics, 2003). Similarly, at the tertiary level, in the National University of Rwanda, only 26% of the female students, graduated in 2003 compared to 74% of males (Ministry of education, 2008). In Rubavu District, in particular, there were 2322 boys compared to 1151 in Public Secondary Schools in 2007 (Direction of Education, 2007).

From all the foregoing, it is explicitly clear that there is gender imbalance in both Secondary and Tertiary education in Rwanda. This poses several challenges and brings about several questions: What are the causes of such gender imbalance? Why is it that the enrolment, completion and achievement rates of females are lower than those of males? What effects does gender imbalance in both Secondary and Tertiary education have on the socio-economic welfare of rural households in Rwanda, and in particular Nyakiriba Sector in Rubavu District? These are some of the intriguing questions which the researcher sought to empirically answer through the study.

1.3 Purpose and objectives of the study

1.3.1 Purpose of the study

The purpose of the study was to examine gender imbalance in Secondary and Tertiary education and its effects on the socio-economic welfare of rural households in Rwanda, using Nyakiriba Sector in Rubavu District as a case study.

1.3.2 Objectives of the study

This study sought to achieve the following objectives.

- i) To establish the importance the people of Nyakiriba Sector in Rwanda attach to educating females in Secondary and Tertiary institutions.

- ii) To identify and analyse the main causes of gender imbalance in Secondary and Tertiary education;

- iii) To establish the effects of gender imbalance in Secondary and Tertiary education on the socio-economic welfare of rural households in Nyakiriba Sector.

1.4 Research questions

The study was guided by the following questions:

- i) What importance do the people in Nyakiriba Sector in Rwanda attach to educating females?

- ii) What are the major causes of gender imbalance in Secondary and Tertiary education?

- iii) What are the effects of gender imbalance in Secondary and Tertiary education on the socio-economic welfare of rural households in Nyakiriba Sector in Rwanda?

1.5. Significance of the study

This study is significant to different categories of people such as the researcher, future researchers, households and policy makers.

Firstly, the study is intended to open the minds of the local communities, especially at district, sectors, cells and households level into understanding and appreciating the status of women in the society so as to be able to change their attitudes towards supporting gender responsive development plans and efforts.

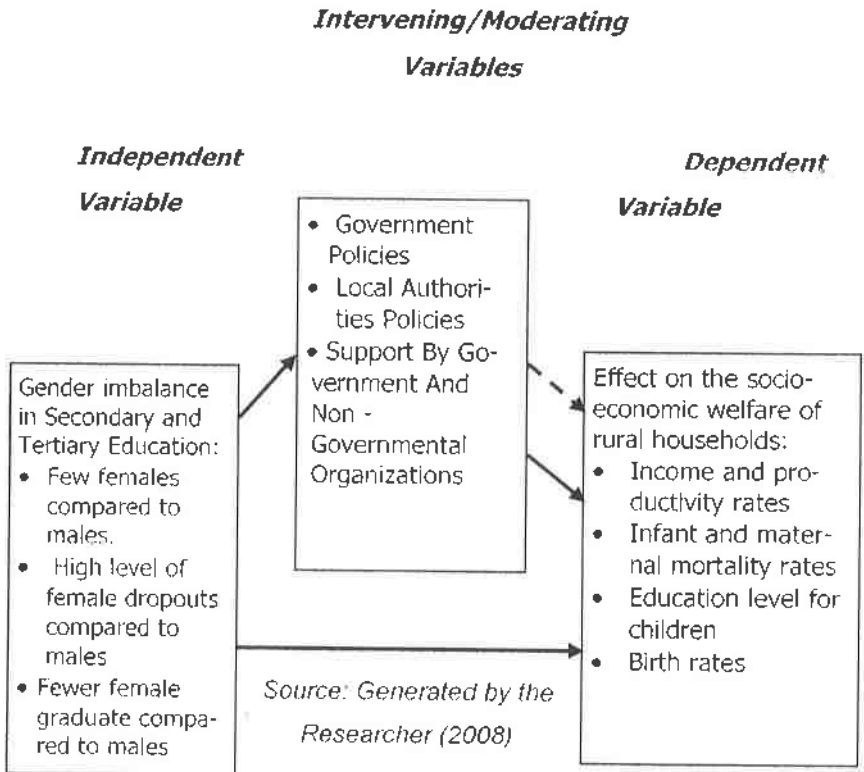
Secondly, the results of the study are expected to assist the Ministry of Gender and Family Promotion, in particular, and the Government of Rwanda in general, in formulating appropriate and realistic policies relating gender, more so, women access to secondary and higher education. Thirdly, the study generated suggestions, which might stimulate further researchers to do more researches on this particular area, addressing gaps in gender issues, and incite more researchers to do other related studies.

II. Literature review

2.1 Conceptual Framework

The conceptual framework of this study demonstrates different variables to be discussed in this study. The variables under scrutiny include the independent variables, dependent variables and intervening/moderating variables.

Figure I: Conceptual Framework



As shown in figure I, the Independent Variable is *Gender Imbalance in Secondary and Tertiary Education*. Aspects of the independent variable (Gender Imbalance in Secondary and Tertiary Education) include: presence of fewer females compared to males; high level of female dropouts compared to males; and fewer females graduate compared to males.

The Dependent Variable represents the *Effects on the Socio-economic welfare of Rural Households* which can/may be characterized by: the level of productivity and income; infant and maternal mortality rates, education levels for female and male students; and the birth rates.

Government and Local Authorities' Strategies as well as the support by Government and Non-Government (Intervening and Moderating Variables) may enable females to participate in decision-making, and be able to exploit their full potential in socio-economic and political sphere if they get equal opportunities with males, and vice versa.

This study sought to establish whether or not the above conceptual framework applies to issues in Nyakiriba Sector, Rubavu District in Rwanda.

2.2 Importance of education on development

Education is one of the poverty reduction strategies and thereby, it enables development among national governments. Social opportunities, such as education, health and civil liberties are viewed as crucial factors that contribute to the development and expansion of human being (Dreze & Amartya, 2002).

The elimination of poverty and progress towards sustainable development will only take place with increased and improved levels of education. Education is at the heart of any national development. The countries that have made greatest progress in reducing poverty in recent years are those that have combined effective and equitable investment in education with sound economic policies.

Education enables people to use and extend their capabilities, develop skills, improve their livelihoods and increase their earning potential. It also empowers them to participate in decision-making in the transformation of their lives.

Education is central to the achievement of greater equality in society, including between men and women.

Investment in education for both boys and girls has been shown consistently to be one of the most important determinants of development, with positive implications for all other measures of progress. It is no wonder that education of both, boys and girls with a gender-based framework, is widely acknowledged as being a single and most powerful vehicle of self-advancement and fulfillment of developmental outcomes for present and future generations of children.

In a more specific way, education of the girl child is widely acknowledged as the foundation of national development and plays an important role in ensuring a safer, healthier, more environmentally sound world (Banda, 2003).

The effects of education on society, on social, health and economic relations, is widely recognized due to studies. Different studies in the last decades have shown that an increase in education enhances the economic growth. The focus on education for women continued during the 1990s and results of different researches showed that investment in this area gave the highest "output" (compared to the earlier development investments focusing primarily on production and industrial growth) both at socio-economic, cultural and political levels.

According to Dreze & Amaryta (2002, p.39), education has five intrinsic values for improving social and economic conditions in Third World countries, both benefits for communities and societies, as well as individual social benefits.

First of all education gives personal benefits for the individual in terms of self-confidence leading to motivation and interests in society. Social interactions are easier when persons are capable of reading a newspaper about social and political issues in the community and the rest of the World.

Secondly, education gives access to a wider range of job opportunities and in general it enables persons to take advantage of economic opportunities and to participate in local politics.

Thirdly, a higher literacy rate facilitates public debates and demands for health care, social security and other needs. Public discussions enable people to hold politicians accountable for their promises of improvements in the social service sector. Information on one's society provides better possibilities for utilizing the service system.

Fourthly, education indirectly prevents child labour to the extent that implementation of legislation of basic education for all children, force parents to send their children to school which again give less time for labour. Entering school broadens horizons for young people, which means that meeting other children and young people could result in new ideas of different opportunities in the future.

Fifthly, education and literacy enables oppressed groups in a society to become politically organized. Being a larger group makes it easier to insist on one's rights and demands concerning social and political issues.

An organized group achieves visibility in the society and is harder to oppress. The ability to resist oppression not only concerns disadvantaged groups in society, but education does also have positive effects within families when girls are being educated (Dreze & Amartya, 2002, p.39).

Therefore, the expansion of the opportunity of education to include girls does not just enhance the capabilities of reading and writing, but is also a means to the promotion of gender equality, development and growth.

2.3 Importance of educating women

Education is an essential tool for achieving the goals of equality, development and peace. Educating girls is one of the best investments a society can make. An educated woman has the skills, the self-confidence and the information she needs to become a better parent, worker and citizen.

Education is central to the achievement of greater equality in society and investing in education of girls has especially powerful benefits, not only for civic participation and family health and welfare, but also positive implications for all other measures of development. Equal access to and attainment of educational qualifications is necessary if more women are to become agents of change (Tuyizere, 2007).

When women are able to attain more education, this can benefit the family in many ways. Experience shows that when income is in the hands of women, more money and attention flow to areas such as children's education, food and health. Families become more child-focused and oriented to meeting basic needs.

Women who had completed basic education were able to make use of health facilities and service for their children and had a higher interest in sending their children to school (Díge, 1998).

A mother's level of education has a strong positive correlation with family health. Educated girls have better opportunities to earn higher wages, participate in community life and decision making and are better informed about health risks that may be relevant to both themselves and their families such as HIV/Aids. One area of increasing importance is the education of women in order to help promote sustainable population growth.

This education includes, but is not limited to, methods of contraception and available social programs for aid. It has also been found that when women receive higher education, they have fewer children later in their lives in order to focus on becoming prosperous citizens. This not only reduces the strain of resources on the planet but also promotes the advancement of the whole human race.

According to World Bank (2002), "educating women and giving them equal rights... increases children's chance of surviving to become healthier and better educated because educated women do a better job caring for children" Human capital theory suggests that just as physical capital (machines) adds on people's economic productivity, so human capital acquired through education improves the productivity of individuals.

The close relationship between a woman's level of educational attainment and higher wage levels is expected to continue in many jobs. A lack of educational qualifications is a key obstacle for women on welfare who need greater educational opportunity if they are to acquire meaningful work (Gwyn& Okazawa , 2001).

Research world-wide shows that, in general, the economic benefits from women's education - calculated as the economic rate of return to education - are comparable to those from men's education. Thus, from the point of view of economic efficiency, the gender gap in education is undesirable.

While the economic benefits of educating girls are similar in size to the economic benefits of educating boys, recent findings suggest that the social benefits from investing in female education are far greater than those from investing in male education.

Specifically, female education has powerful effects on the total fertility rate (and hence on population growth), the infant mortality rate, female disadvantage in child survival, and on child health and nutrition.

By contrast, statistical analyses show that maleschooling has relatively much smaller effects on these important social outcomes. A large and growing body of research and experience supports educating women and girls to achieve among other goals, improved

Nations that have high levels of female school enrolment have significantly higher levels of economic productivity, lower infant and maternal mortality, and longer life expectancies than other countries.

In addition to these benefits, the value of education in improving the quality of life of women themselves should not be overlooked. The intrinsic value of education can provide great fulfilment, a higher quality of life, and confidence to pursue greater achievements.

According to Tuyizere (2007), literacy in women is important for improving health, nutrition, and education in the family and empowering women to participate in decision-making in society. Investing in informal and non-formal education and training for girls and women, with its exceptionally high social and economic returns, has proved to be one of the best means of achieving sustainable development and economic growth.

2.4 Causes of gender imbalance in education.

Education for girls is fundamental for development. Yet at secondary school level, gender disparities widen. In sub-Saharan Africa, 17 percent of girls are enrolled in secondary school (Allisson & Randell, 2007). Throughout society, and particularly among poor families, gender biases influence parent's decisions regarding school attendance in favour of boys.

It is understood that girl's place is in the home and on the farm, in both the present and the future, thus reducing the relevance of education.

According to Ankerbo & Hoyda (2003), one of the main obstacles to school girls and women in Third World Countries, is the fact that household work is a great time consumer, which leaves little room for studying and less energy to the motivation needed for performing well in school.

The first constraint begins even before enrolment for girls in primary school. Parents with low income have to make priorities whether it is profitable enough to send girls to school.

First of all, boys are prioritized because they are the future providers of economic security for their parents, while girls' future roles are to be married away.

Secondly, sending girls to school deprive the family of instant household work since girls have 2/3 more of the household work compared to boys. The rate for enrolment at secondary level decreases strikingly and dropout numbers for girls during secondary education are high. One of the main reasons for this is pregnancy and marriage.

Reasons why some girls do not even enter secondary school are also that many girls start primary school later than boys, thereby being mature before finishing primary school, which means that risk of pregnancy already is present. Girls attending tertiary level of education also face many obstacles. Even fewer girls enter higher education and again first entered dropout numbers are high.

They achieve less than boys and are not encouraged as much as boys to continue. Even if education is completed, future returns/benefits of waged labour is limited (Ankerbo & Hoyda 2003).

Moreover, community involvement in the schools is limited, neither supporting the teachers and the school program, nor families who are struggling to keep their children in school. The other reason of gender imbalance is that girls drop out of school before completing for many reasons:

According to Banda (2003), there is a variety of reasons that prevent girls from completing primary education level. The main reasons that have been documented in various studies include socio-economic, socio-cultural, and school related factors.

Socio-economic factors include family poverty, direct costs of the school including cost of school materials and levies, and opportunity costs of schooling.

Socio-cultural factors include pregnancies and early marriages, initiation practices, parental attitudes and aspirations for children, household chores, puberty-related issues, death in the family, and caring for sick parents or relatives. School-related factors include distance to school, attitudes and perceptions of teachers, lack of female teachers to act as role models, academic performance, resource allocation within schools, curriculum length and quality of teaching time.

The major reasons why students drop-out of secondary schools are as follow: pregnancy, discipline, lack of school fees and other reasons that include lack of support, sickness taking care of sick parents or relatives.

A number of financial issues restrict the participation of girls from poor areas. While tuition fees are at the primary level, additional fees for school construction and maintenance, school materials, uniform... and other costs must be paid by individual families and are a heavy burden on household budget of the poor. If resources are limited, boys are given preference.

At the secondary level, high school fees prevent children from poor families from accessing secondary school. Many poor families can only afford to educate a few of their children.

In many cases, sons are often chosen over daughters, both out of patriarchal social traditions, and because boys are likely to find more employment opportunities and higher average wages in the future. They thus constitute a greater return on the family's investment.

At the university level, this bias is even more exaggerated. Across the board, boys are granted entrance to public universities in higher numbers, and are the recipients of highly coveted government scholarships. Affirmative action within secondary and university admissions is necessary in order to promote gender equality within public school (Allison and Randell, 2007).

A study by Binauli (2002), shows that girls are from time to time asked to assist their mothers or guardians in household chores. As a result, their performance is affected at school and becomes lower than that of boys. Furthermore, the same factors spring out at secondary education level ensuring even fewer numbers at tertiary level.

2.5 Effects of gender imbalance on development.

Gender imbalance in favour of men has a great impact on socio economic development. Whatever the reason(s), having a large number of girls outside the formal schooling system brings developmental challenges to both current and future generations. Individuals, families, communities and nations are affected. The inability to read, write and calculate complicates a girl's efforts to engage in both market-focused production and household activities as effectively and efficiently possible. This affects her family's welfare and diminishes her potential contribution to the development of the household, local and national economy.

Low levels of female school enrolment in developing countries as well as in Rwanda have significantly lower levels of economic productivity, lower fertility, and higher infant and maternal mortality; not providing girls with a proper education have negative returns to society overall as well as to the economy specifically,

because education gives girls the skills, opportunities, and self-confidence they need to become active contributors to their nation's development; illiteracy in women is an obstacle for improving health, nutrition and education in the family and empowering women to participate in decision-making in society; the lack of formal and non-formal education and training for girls and women, can't promote sustainable development and economic growth (Tuyizere, 2007).

The standard of living for girls and women would not be improved in the areas of health: family planning, nutrition and immunization of pregnant mothers. A good number of illiterate women are excluded from economic, political and educational opportunities in the development process (Lips, 2000).

Because of the lack of appropriate education, women are lower paid and have lower social status. In all sectors, men hold more prestigious and higher paid positions, while many women hold less prestigious and less well paid positions. Women's lower participation in training and in the technical fields tends to exclude them from jobs and professional careers in the promising field of high technology. The girls and rural women farmers cannot require specialized services because of the lack of education.

Gender disparities impede economic growth, hamper poverty reduction, and adversely affect human well-being. When women and men are relatively equal, economies tend to grow faster, the poor move more quickly out of poverty, and the well-being of men, women and children is enhanced (Lips, 2000).

To the best of my knowledge, little research has been conducted in Rwanda on gender imbalance in secondary and tertiary education. The current study has therefore attempted to fill this gap by investigating gender imbalance in secondary and tertiary education and its effects on the socio-economic welfare of rural households in Rwanda using Nyakiriba sector, Rubavu District as a case study.

The above literature review is relevant to the current study, in that, it raises critical issues in gender imbalance especially in secondary and tertiary education. The themes highlighted above are therefore useful to this study in that not only they have inspired the research questions and interview guide, but also have enlightened the discussion of the findings.

The researcher therefore wanted to establish whether what the scholars put forward in the reviewed literature are true reflection of what is going on practically in Nyakiriba Sector, in Rubavu District in Rwanda.

III. Methodology

3.1 Research design

The study mainly used a case study and survey research designs. These were used to avoid unnecessary generalizations. Nevertheless, it also adopted descriptive approach, which used both qualitative technique and quantitative methods. The qualitative design was used to obtain in-depth information about gender imbalance in education and its effects on the socio-economic development in Nyakiriba sector, Rubavu district. This sector was selected randomly as one of the rural sector in which gender imbalance is very wide. The quantitative technique was used to present the findings in tables using numerical figures and percentages.

The researcher used a self-administered questionnaire which was administered to each of the sample population and questionnaire was designed in accordance with the research objectives and research questions.

The interview was used because it gave an opportunity for respondents to express themselves more clearly and to expound more on the topic. An interview guide was designed by the researcher to guide the interview process. The interviewees were selected taking into account their knowledge on the subject under discussion.

3.2 Study population

The study covered the entire sector of Nyakiriba with a population of 18,950 people in about 3,700 households (Monograph of Nyakiriba sector, 2007). The research concentrated on generating primary data from the population, and the officials of administrative units of the sector. Majority of this population is illiterate. Nevertheless, a few of this population have gone at least up to upper primary and secondary levels of education.

3.3 Sample and sampling procedure

It is often expensive and time consuming to collect data from all individuals in the categories of targeted respondents.

3.4 Instruments of data collection

The instruments chosen for data collection depended on several factors and these included the followings: the scope, the nature and the object of inquiry, availability of funds, time factor and the precision required as recommended by Kothari (1992). The following methods and instruments were used:

For example, data could not be obtained from all of the people living in Nyakiriba Sector, considering the scope and time limits of the study. Rubavu district was randomly selected for the survey because it was easy for the researcher to access data. One rural sector was randomly selected because gender imbalance is very wide in rural areas.

From about 3,700 households in Nyakiriba Sector, the researcher selected 348 households; added 4 Directors of Primary Schools, 1 Executive Secretary of Nyakiriba Sector, 4 Coordinators of Cells, and 3 Civil Servants in Nyakiriba Sector, to make a total of 360 persons.

3.5 Validity and reliability of the research instruments

3.5.1 Testing the validity of the research instruments

The validity is the extent to which a measurement instrument actually measures what it is designed to measure (Amin, 2005). The validity of the instruments of this study referred to the content of the self administered questionnaire.

To make sure that the questionnaire measured what was intended to measure, to ensure the clarity of questions, their effectiveness and the time required to complete the questionnaire, the researcher assessed its content validity and reliability.

The researcher used secondary sources in data collection that included published books, journals, reports, magazines, newspapers and internet, etc. The researcher also used the institutional libraries such as the Ministry of Gender and Family Promotion, Ministry of Finance and Economic Planning, etc. This helped the researcher not only to be able to obtain the background information and literature review of the research problem, but also to avoid the replication of data already available and provided the picture of what was known and what was to be known.

Observation was also used to get actual information on the ground and relate it to enrich the findings. Observation is a purposeful, systematic and selective way of watching and listening to an interaction or phenomena as it takes place. This method was employed to identify the living and working conditions of women especially the illiterate ones. Much attention was paid to their socioeconomic conditions as well as how they face their daily problems.

3.5.2 Testing reliability of the research instruments

In order to test the reliability of the questionnaire, the researcher conducted a preliminary testing of the questionnaire before constructing the final copies to be distributed later in the field for actual data collection. The questionnaire was tested to a selected sample, which the researcher planned to use in the study. Five persons in each cell were given questions for testing. This enabled the researcher to improve the questionnaire.

They were asked to assess the validity of questions in the questionnaire by ranking them from 1 to 4 against objectives of the study, and research questions. 1 stood for not relevant, 2 for somewhat relevant, 3 stood for quite relevant and 4 stood for very relevant. From there, a Content Validity Ratio (CVR) and Content Validity Index (CVI) were calculated.

CVR was calculated by subtracting the total number of items judged to be not and somewhat relevant from the total number of items judged to quite and very relevant thereby dividing them to a half of people asked to judge the questionnaire. The CVI obtained is 0.8, it is accepted because normally it should be greater than 0.7, (Amin, 2005).

To test the content validity, the researcher used a panel of four experienced researchers in the domain in to assess their suitability and relevance to the objectives of the study and research questions; whether each question in the questionnaire was fundamental and valuable.

3.6 Data analysis

Primary data were collected from the respondents in sampled households and secondary data were obtained from literature review. Data were organized in a more meaningful and interpretive way to attain the study objectives.

The study employed descriptive statistical tools to analyse quantitative data obtained from the study. Table of frequency distribution was prepared whenever necessary as well as the percentage occurrence of each the response to a particular question. Qualitative data were analysed by thematic analysis that is an analysis of the main themes as required in the study.

The results were tabulated for easy interpretation such that one could easily visualize the various results as given by the respondents. A discussion was made at the end of every theme and was relating to the objectives of the study

3.7 Ethical considerations

The study primarily engaged respondents in selected households in Nyakiriba Sector who were viewed necessary for data collection. Accordingly, extreme confidentiality was promised and this was effectively adhered to because the researcher promised secrecy with regard to the information they provided.

IV. PRESENTATION AND DISCUSSIONS OF FINDINGS.

4.1. Importance attached to education of women by respondents

The respondents had to answer to the question relating to the importance of educating women and the answers are mentioned in the Table XI:

Table I: Importance of educating women.

Importance	Frequency	Percentage
Improving family health and well being of the family	129	35.8
Increasing economic productivity	75	20.9
Contributing to education of children	87	24.1
Partaking in decision making	39	10.9
Reducing dependency	30	8.3
TOTAL	360	100

Source: Data field 2008

The research findings revealed that education enables women to improve their family health; and allows the well being of family members.

The respondents stated that an educated woman understands easily the problems relating to health and hygiene, she knows how to protect herself as well as all the members of the family from all kind of diseases, and she knows easily what a balanced diet should be made up of as well as how to prepare it.

This study agrees with the findings of Dighe (1998) when he said that women who had completed basic education were able to make use of health facilities and service for their children and had a higher interest in sending their children to school.

Other respondents gave the importance of high level of education of a woman, by ascertaining that it enables woman to increase economic productivity and helps her not to be dependent on her husband.

Banda (2003), in his research carried out in Malawi also found that the education of parents, especially mothers, has been shown to affect the cognitive, affective and physical development of the child with improved nutrition and health.

The study further found from some of respondents that the education of a woman enables the education of her children. The respondents explained this by saying that when a woman has high level of education, she stimulates her children to go to school because she knows the importance of education.

The results found in Nyakiriba Sector are not different from what Dighe (1998) came up with: women who had completed basic education had a higher interest in sending their children to school.

The respondents explained that when a woman has a high level of education, it is easily for her to get job, so that she can earn money. She can even create jobs for herself or even improve her daily activity, if she is a farmer, she will use the modern techniques, and thus, the productivity will be increased.

The findings of this study are related to the findings of other researchers. For example according to Dreze and Amartya (2002, p.39), education gives access to a wider range of job opportunities, and in general, enables persons to take advantage of economic opportunities.

According to Tuyizere (2007, p.194), literacy in woman with its exceptionally high social and economic return has proved to be one of the best means of achieving sustainable development and economic growth. Banda (2003) also found that education of women is associated with increased agricultural productivity and higher income.

4.2 Causes that push girls and women to drop out of school.

In the second objective of the study, the researcher wanted to investigate the causes of gender imbalance in favour of men in the Nyakiriba Sector. The question that was asked required respondents to give, the causes that prevent girls and women from continuing the secondary and the tertiary education. In this question, the researcher wanted to know why there are a few women in secondary and tertiary education. The table below indicates the views of the respondents:

Table II: Causes of gender imbalance in secondary and tertiary education

Causes	Frequency	Percentage
Poverty	66	18.3
Marriage and pregnancy	39	10.8
Lack of interest	21	5.9
Job	45	12.5
Culture	39	10.8
Poor academic performance	63	17.5
Parents' level of education	60	16.7
Attitude and beliefs	27	7.5
Total	360	100

Source: Field data

Concerning gender imbalance in secondary and tertiary education, the findings revealed many reasons. The major reason is poverty.

Indeed, while primary education in Rwanda is free; parents have to pay school fees for secondary and Tertiary education. Some parents can hardly afford such fees because of poverty. This was revealed by Allison and Randell (2007), when they argued that high school fees prevent children from poor families from accessing secondary school. Many poor families can only afford to educate a few of their children. In many cases, sons are often chosen over daughters as indicated in findings.

Another major cause that pushes girls to drop out of Secondary and Tertiary education is due to the socio-cultural factors that include the marriage and early pregnancy. These factors affected more girls or females. It was reported that most of the girls because of pregnancy left school and got married, it is now a common practice that when a girl is pregnant, she has to drop out of school.

Most of them are forced by their parents to leave schools so that they get married and parents benefit by getting bride dowry. This is going in line with arguments by Ankerbo and Hoyda (2003) as they suggest that the reasons why some girls do not even enter secondary school are also that many girls start primary school later than boys; thereby, being mature before finishing primary school brings about the risk of getting pregnancy.

The social factors, like culture, does affect the girl child in school because as revealed by where choice is to be made in education, parents opt to invest in boys rather than in girls. This is due to the beliefs that girls are not as intelligent as boys and that they have to look after their young sisters and brothers and do the housework.

The findings are also in agreement with the findings from Banda (2003) which indicate that girls drop out of school due to socio-cultural factors that include pregnancies and early marriages, parental attitudes and aspirations for children, household chores, puberty-related issues, death in the family, and caring for sick parents or relatives.

The poor academic performance is another factor that prevents girls and women from accessing to school. That is the condition to have access to Public Secondary Schools and University.

The study shows that in Rubavu Sector in general and Nyakinba Sector in particular, there are more girls in private secondary and university than in public ones. These findings are also in agreement with findings from (Allison and Randell, 2007) as they indicate that at secondary school and university level, entrance to public institutions that provide higher quality and lower cost education, are determined on the basis of performance in primary school and secondary leaving examinations.

Statistically, girls perform much lower in examinations at all levels, due to high rates of absenteeism. Using examination scores as the criteria for entrance to public schools institutionalizes discrimination against women.

The findings revealed also that illiteracy of parents is a factor of paramount importance, because when parents are illiterate or have a low level of education, they do not understand easily the importance of sending a girl to school. Some of them usually say to their children that they did not study still they are not poor. Thus, they do not perceive the importance of education appropriately. This has been revealed by Macionis (1999, p.521), when he ascertained that children whose parents also have little schooling drop out.

Nevertheless, it should be noted that Macionis (1999, p.521) came up with quite a different finding as he states that some students drop out because of problems of language. Though the mother tongue is Kinyarwanda, the language used in learning is French, and English, no one of the respondents mentioned the language as the causes of girl's drop out of school.

Children, whose parents have a higher level of education, are much more likely to have a home that fosters educational advancement. Even if parents are not communicating with their children, the latter can see, from their surroundings that education is important and so they strive to complete their studies.

4.3 Effects of gender imbalance in favour of men on development of rural households.

The question was asked to the respondents concerning the consequences of gender imbalance in favour of men on socio economic- development welfare of households as well as the whole country. Table III indicates the views of the respondents on how this issue affects the development of household.

The use of the Direct method and related teacher-centred approaches appears to be the only one way to teach language at all these levels because learner-centred approaches seem to challenge the authority of language teachers and to weaken their monitoring power. Teachers want to teach the way they were taught and find innovative approaches too orthodox to apply while they are expected to act as managers and facilitators of students' learning.

At the tertiary level, there is a necessity to consider the level of maturity of the learner and to put him at the core of the teaching activity via a participative approach. To do so entails a positive change of the mind set: language is a jumpable hurdle that our students can do away with. To analyse students before any intervention appears to be the right step to make.

homogeneous, but the degree of homogeneity is something hard to determine given the rate of interpersonal differences. In a learner-centred approach, however, the grouping is done on the basis of learners' needs: same needs, same group; different needs, different groups.

It is the learning needs and not the teaching materials that dictate the grouping of students. Students may be different as individuals, but their needs may make them look alike. That is why the leading force is rather needs' analysis than level of performance because the latter can be poorly assessed.

The success of a language course entails a careful examination of the contents so that the present spread-out guarantees effective learning outcomes.

This means that a student who is in category 5 will have to go through level 4, 3 and 2 before s/he can be expected to reach the required proficiency level of category 1. Because the course is continuous and compulsory, there is a possibility to scaffold students' learning up to the best of their abilities. The challenge is real.

To address it, there is a necessity to revisit the language teaching package, a kind of 'remise en question' of language programmes at all levels through a spiralling technique which consists of building upon students' possession, recycling their learning experiences and capitalising on reasons to learn towards individual full potentials.

Multilingualism was found to be a positive factor in second language acquisition and as such, Kinyarwanda native speakers, who are in a transitional period from monolingualism to multilingualism, are in position to acquire English and French if an ecumenical approach to language teaching is applied.

However, there lingers the necessity to understand how students with a language barrier perform well in a system where English is a medium of instruction. A possible way of looking at this controversial performance is either in the complaisance of assessment (marking) or in the effects of rote memorization if what is assessed is not the flexibility and lifelong learning, but the ability to memorise lecture notes.

Result 2

The current approach to language teaching focuses more on the structure of the language (grammar and writing) than on imparting speaking abilities. The reason for this is that language is being lectured about and not taught.

The teacher-student ratio in language classes has a negative impact on the acquisition of communication skills. In a class of a hundred or so students, the only approach that lecturers use is the ex-cathedra method, where the lecturer is in the spotlight and students are simple admirers. This gives rise to teacher talk, chalk and board leading to memorisation of rules of good usage.

Result 3

There is a positive move towards the use of English among students. However, a low level of communication abilities in French and English pushes students to seek refuge in the mother tongue. Loyalty to the mother tongue is a symbol of nationalism, unity and cohesion. Rwanda has a unique advantage to share the same national culture through the use of Kinyarwanda and this is an important asset to preserve for the acquisition of English.

Contrastive studies on Kinyarwanda and English/French are likely to shed more light on areas of difficulty to be emphasised for the enhancement of the learning of the two languages in furtherance of Rwanda's simultaneous membership to "Francophonie" and Commonwealth.

Result 4

Students' needs are neither investigated, known nor attended to properly. Students are taught languages either as a class or a group whose needs are simply guessed at. At times, language classes are organised in terms of departments irrespective of the abilities and needs of the concerned students. The argument usually put forward highlights the lack of financial means and related facilities; yet, lack of adequate communication skills has more harmful and long lasting effects than stringent budgetary lines.

Conclusion and recommendations

It is an advantage to recognise that the provision of quality language education in institutions of higher learning is a challenge to address and that the level of language

teaching in primary and secondary school remains low as a result of teacher training in bilingual approaches used in teaching languages. At the primary level for example, most teachers are prisoners of their own generation: English was not a school subject when they went to school; yet, the provision of language programmes entails such skills and regular on-the-job training.

At the secondary level, the emphasis is rather put on the methods of delivery (i.e. how to teach such and such lesson) than on how students acquire language and how to harness the imparted skills. Indeed, students' current level, their abilities, their needs, their problems, their strategies...) constitute a valuable body of information for a committed language teacher.

The average score and levels in French and English for those who studied them and who performed well is set out in the table below:

Level	A			B			C			D		
	A+	A	A-	B+	B	B-	C+	C	C-	D+	D	D-
French	0	0	0	0	2	1	3	1	1	0	0	0
English	0	0	0	0	0	0	0	0	0	0	1	0
Average	0	0	0	0	3	0	0	5	0	0	1	0

Average scores and levels in French and English among best performing students at RTUC (2009)

According to the scale used by the National Examinations Council, grade A is Great Distinction/Excellent, grade B ranges between 70 and 74 % (Distinction or Very good) while grade C is comprised between 55 and 59 % (Satisfaction or Merit).

The reading of the figures in this table leads to the conclusion that 62.5 % of students performed satisfactorily against 37.5 whose performance was judged very good. In terms of the distribution, more subjects fall under grade C than under B, which indicates poor language skills amongst secondary school leavers.

Among those who failed, 22 students out of 38 (57.89 %) did not take French as a school subject against 42.1 % who studied English. The difference between the two languages seems to be apparent, not significant enough from the average student performance in semester examinations

In this regard, it appears that the language component is lacking to corroborate the hypothesis of correlation of language and academic performance. If language were a factor, the 16 students who studied English as a school subject in secondary school would have at least got a pass mark. The failure of students in this group might be related to other factors such as the ability to address examination questions, the level of mastery of the scientific subjects and/or the overall schemata.

The necessity to point out why some students did not or do not currently have French and/or English as school subject was beyond the scope of the present paper. Never the less, the practice is that students have a choice between a restricted number of subject combinations such as geography-economics-mathematics; history-economics-geography and general paper or a simple cluster like humanities, accounting, education, mechanics, bio-chemistry ... and the inclusion of language highly depends on the combination and on the year of study. Some batches within the same cluster have had both French and English, others have had only one and others still have had none. This recurs to the necessity to question all our practices.

It was further discovered that of those who had studied both French and English, 50 % had a higher score in French than in English; 30 % had an equal score in both languages while 20 % had a higher score in English than in French.

This means that if the medium of instruction were French, at least 80 % percent of students would pass the examinations with a grade equal or superior to a pass, which entails that the teaching of English still deserves more effort.

At RTUC, the picture would be better if language were taught and not lectured about. In academic contexts, teaching implies showing somebody how to do something so that they will be able to do it themselves. In language teaching, it is to help students learn a target language so that they become effective users of it. Lecturing, on the other hand, entails giving a talk to a group of people on a subject as a way of teaching them.

It was during this interaction that the data on the individual performance were collected. The student's speech was not recorded to avoid the effects of the Observer's Paradox (Labov, 1972b), but judged on the overall performance of the candidate in terms of the clarity of the point made, the content of the message, comprehension, fluency, accuracy, sentence structure and meaning, pronunciation, word choice, etc. A particular attention was paid to the ability to stick to one language throughout the interaction and to the quality of the language used.

Secondly, the strategy consisted of advising the student to write an appeal letter as recommended by the examination regulations, which would generate written data. From the sampled letters, such elements as parts of a letter, layout, clarity of ideas, spelling, grammar, overall organisation, mechanics of writing such as punctuation, paragraphing, capitalization, etc. were taken into account. Letters were sampled in both languages, French and English.

Every letter was assigned a letter (A, B, C or D) depending on which elements were lacking in it. Letters marked with A were lacking in overall grammar (sentence structure, sentence meaning, mechanics of writing (punctuation, paragraphing, capitalization)); B in vocabulary (word choice, spelling);

C in overall organisation (parts of a letter, layout, overall presentation including margins, neatness...) and D if one or another convention such as the choice of the stationery, formulaic language, complimentary close, signature, etc. was not respected. Sometimes, a same letter would fall under different categories.

No student was forced to participate in the study and the identity of those who participated was kept secret. For the sake of confidentiality, students were referred to by their registration numbers. The primary aim of the exercise was not to collect data for analysis, but to provide quality service to the student. No student felt cheated or unfairly treated.

The data were analysed following the multivariate analysis with a particular attention on different aspects of Second Language Acquisition, namely the effects of prior language on subsequent learning with a particular interest in the correlation of language abilities and academic performance. After the analysis of the data, a number of findings were made as set out below.

Result 1

Eighty-three percent of the sampled subjects still have difficulties speaking French and English against eighty-eight percent of the same sample who are unable to effectively communicate in writing.

Two groups of students, those who performed very well and those who failed in all the modules of the first semester of the academic year 2009 attracted my attention. Here, I wanted to know whether or not language background had an effect on the performance of the two groups. Out of twenty best performing students who got grade A (Great Distinction), 10 (50 %) had an average scale boundary of 6.5 on their A2 certificate examination and 10 others (50 %) had a score of 2.8 in average on the scale used by the National Examinations Council.

2. The KIST model

In the KIST model, students take language courses concurrently with their main subjects, sometimes after a foundation semester devoted to language learning and common subjects. Language subjects (French and English) are taught throughout the degree programme. For four or five years, students are taught a variety of language programmes (general French/English, technical French/English, English for engineers, English for specific purposes, English for academic purposes...). The language programme remains in line with students' fields of specialisation even if the needs of the students in each stream are only guessed at.

3. The NLP model

The NLP model assumes that secondary school leavers have had enough language at primary and secondary school levels. Therefore, language teaching should be restricted only to the first year of university/college. This was the policy before the establishment of English as the medium of instruction at the tertiary level. Such an assumption seems to have aimed too high with the risk to reach too low.

The results recorded in various institutions of higher learning in the country indicate that language is still a challenge for most students to the point that the policy is seriously at stake. An example is that in an examination at college level, students sometimes find the language a difficult hurdle to jump and write one part of the answer in English, another in French and the rest in Kinyarwanda. This happens not because students are not able to learn, but because college language lecturers have remained the same, monitors and not facilitators, people who are not ready to change. This is observed through the 'teach and go' policy, where only the number of hours spent in class counts and not the outcome of the teaching action.

Rather ironically, instead of analyzing the language needs and conducting students' analyses properly, the congregation has become slave of published textbooks without a sound evaluation of the suitability of teaching materials at hand. For instance, the only textbooks used for the teaching of French are Girardet J. & Cridlig J. (1996, 1998, 2000) *Panorama de la langue française* and Girardet J. & Pécheur J. (2002, 2005) *Campus 1/2, méthode de français* and for English Swan, M. & Walter, C. (1990) *The New Cambridge English Course for English*. With reference to the issue of language provision, such a situation necessitates an investigation.

Research design

In order to address the challenge of language teaching and learning at RTUC, a survey was conducted between March 2008 and November 2009. Three hundred and seventy-eight students participated in the study. They were either first or second year students studying towards a degree in hotel and restaurant management and travel and tourism management.

Any student who approached the office of the Registrar for a particular academic problem was sampled. For example, students who missed one or another component of the continuous assessment test (CAT) or whoever did not write an exam for a variety of reasons approached this office to explain what happened to them. Similarly, those whose marks were not properly entered or those who had a claim contacted this office to lodge their appeals.

The engineered strategy for the collection of data consisted of two stages. Firstly, the student was requested to explain his/her problem orally.

In other words, what students have acquired is not known and what they lack as language skills is not known. In reality, if students' language background information is not known, it will be difficult to make them reach their full potentials. Similarly, if students' needs are not identified, they will not be properly addressed, hence a biased teaching and a poor student performance.

Finding out the information on students' needs does not necessarily mean that teachers will teach only what students want. Of course, teaching does not take place in isolation; there are certain things such as institutional goals, language curricula, individual aspirations and natural abilities that cannot be ignored. Students' analysis helps teachers bring together the required and desired information in order to formulate SMART objectives, conceptualize the course contents, select teaching materials, adjust teaching methods and devise course assessment strategies. Unfortunately, teachers pay more attention to generic principles of traditional language teaching at the expense of students' analysis, an exercise often considered too onerous to embrace.

What is true in teaching and learning contexts is that where language is a burden, students face a dual level of difficulties: (1) the language in which the material is taught (medium of instruction) and (2) the acquisition of the scientific knowledge (understanding the course itself). The language policy at RTUC is fortunately geared towards the elimination of the first hurdle so that students access the scientific knowledge via the most appropriate vehicle.

Discussion

In an attempt to abide by the requirements of the national language policy and address the challenge of language skills provision successfully, several efforts have been made so far in various institutions of higher learning nation-widely.

These include (1) the *Ecole Pratique pour les Langues Modernes* (EPLM) model, (2) the *Kigali Institute of Science and Technology* (KIST) model and (3) the *National Language Policy* (NLP) model. This paper has grouped the existing attempts into three models depending on their respective approach to language teaching.

1. The EPLM model

The EPLM model was in use at the National University of Rwanda (UNR), in the Kigali Institute of Education (KIE) and in other public institutions, but was abandoned for inadequate outcomes. It consisted in offering an intensive language course to students before taking degree courses with the assumption that a total emersion in a language course will enhance students' language abilities.

The course was taking a whole calendar year at the end of which students usually pass examinations, sometimes with very high marks, but the gap between their real performance and what is expected of them remains quite often widening.

The reason why students' performance remains poor is that (1) students' entry level is not properly determined and their learning needs are not identified; (2) teaching usually takes place in a context where the teacher-student ratio is too high; (3) the teaching methods used privilege teacher talk, chalk and board; and (4) there is a too heavy emphasis on the structure of the language.

The logical consequence is that students complete the EPLM programme and are exempted from taking a variety of language-related subjects such as *Techniques d'expression orale et écrite en français, Anglais I, II, III, communication skills...* when they enter college or university. Such results are somewhat deceptive as students do not deliver, but believe

In institutions of higher learning, the implementation of the bilingual policy has entailed that French-speaking students be taught English and English-speaking students be taught French so that upon graduation each student becomes bilingual in the two languages as a prelude to a trilingual nation (Kinyarwanda-French-English), able to address the challenges of the globalizing world.

This policy has an advantage for teaching purposes. In situations with scarce human resources, instead of hiring two lecturers for the same subject in the same class, one for the English-speaking group of students and another for the French-speaking group, the university/college would recruit only one lecturer as students are expected to cope with lectures in either language and ensure the same quality of teaching.

In attempt to achieve such a policy, communication within the national community needs to be enhanced via the provision of language skills to citizens, particularly those attending institutions of higher learning. This is the very essence of the bilingual policy of the Government whose aim is to train skilled and articulate graduates to serve as the knowledge hub of the sub-region. To impart the necessary communication and soft skills to graduating students remains the only avenue to making them relevant, competitive and industry-ready.

However, the provision of language skills to students in colleges and universities, particularly at RTUC, is a real challenge to address because the current language teaching approaches overlook some important principles of need-based teaching.

Indeed, performance problems our students face in language classes are a result of teachers not paying attention to students' interests; they ignore students' needs and end up teaching inappropriate materials via inappropriate methodologies.

Problem

Three in five students who registered in Rwanda Tourism University College (RTUC) between 2008 and 2009 declared themselves bilingual in both French and English. However, the analysis of their performance reveals that 83 % of them are unable to sustain a conversation in either language and 88 % of the sampled students still have serious difficulties communicating in writing. This is a challenge if RTUC and sister institutions want to ensure that language is not a barrier to the acquisition of scientific knowledge and/or a hindrance to the development of students' full potentials.

The problem is that the gap between language provision and the expected outcomes tends to widen and that the overall student performance falls short of the yardstick by far in comparison with the amount of time and effort devoted to language teaching: teachers teach, but learners do not learn and do not perform up to the expectations partly because of inaccurate teaching and related choices.

Research questions

Since language is an important tool in the transmission of scientific knowledge, there is a necessity to ensure that students' level of communication skills is worth the invested effort.

Language is a precious commodity; if needed, a strong model should be provided. That is why accurate information on students' ability to communicate is fundamental and worth investigating. With this view in perspective, the paper attempts to answer the following and related questions:

- Why is students' level of language so low?
- Is there a correlation between language abilities and academic performance?

What can be done to ensure that the imparted skills are nurtured?

Hypotheses

It is the view of this paper that equal attention needs to be paid to both delivery techniques and acquisition strategies through a sound analysis of students' learning needs. Today, more attention is focused on how to transmit language skills than on how the transmitted skills are acquired and nurtured.

Among the underlying factors of poor performance in language subjects at RTUC in particular and in Rwanda at large mention should be made of:

1. The assumption that secondary school leavers have had enough language in primary and secondary schools. It is this 'enough language' belief that not only influences decisions and dictates practices in language classes, but also deceives students themselves and provides institutions of higher learning with wrong information on the linguistic background of entering students.
 2. The learning needs of students are not known; they are simply guessed at, which results in students being taught irrelevant materials in an inappropriate way for no obvious purposes.
 3. There is a chain of influences from primary to secondary into tertiary education. The current level of communication skills in students is the result of combined effects of past training and current teaching approaches.
 4. The 'teach and go' attitude among language lecturers does not help scaffold students' learning effort: teachers teach but students do not learn. While lecturers complain about students' lack of motivation and poor class attendance, students stay away from language classes for irrelevance of teaching materials and poor delivery techniques.
- The disparity between language provision and learning outcomes stresses the need to understand the underlying paradigm of delivery-acquisition in language classes in colleges and universities across the country.

Theory

The question of language provision and performance has been extensively discussed in Second Language Acquisition literature with suggestions that useful information may be yielded by analyzing students as individuals. According to Sysoyev (1999), students' analysis is likely to give two kinds of information key to a sound language acquisition process. The first reflects students' 'possession' i.e. their current level in the target language, their motivations, the methods of learning they have experienced, their expectations, their frustrations, their strategies, their contribution to the learning, etc. The second information represents what students want to achieve i.e. their reasons for learning.

These two kinds of information usually correspond to two levels of knowledge presented in Krashen's (1982) *Input Hypothesis* also known as $i + 1$ Hypothesis in which i represents students' current level of competence in L2 and $+ 1$ is the level of proficiency beyond their present level of knowledge.

In simpler terms, students are motivated to learn only if there is something more challenging than their actual level of the knowledge of the world. Conversely, if the material taught does not contain new information, students' motivation tends to fade away as a result of dissatisfaction and lack of interest. In most language classes, the situation is far from the ideal $i + 1$ because students act as spectators and admirers of the spotlighted teacher.

It is here that the scaffolding role of the language teacher arises. It is the view of this paper that language learning problems take roots in the information gap between these two stages. What students know is not known, what they do not know is not known and what they are able to achieve is not known either.

Romo, H. And Falbo, T. (1996). *Latino High School graduation: Defying the odds*. Austin: University of Texas.

Theo, A. (2000), *Sociology: A brief introduction*, 5th Ed, Person Education, Inc, USA

The Dakar Framework for Action (2000), *Education for All: Meeting Our Collective-Commitments*. Retrieved (August 29, 2008) from the World Wide Web:<http://www2.unesco.org/wef/en-conf/dakframeng.shtm>

Tuyizere, (2007), *Gender and development, the role of religion and culture*, Fountain Publishers, Kampala, Makerere University.

UNDP(2001), *Human Development Indicators, 21 Gender-related Development Index*.

Theo, A. (2000), *Sociology: A brief introduction*, 5th Ed, Person Education, Inc, USA

UNESCO (2000), *Education for All: Status and Trends*, Paris.

UNESCO (2008), Institute for Statistics, *Gender parity in education: not there yet*.

UNICEF (2002), *Girls' education training manual. Focus on the African girl's education initiative, Eastern and Southern Africa*. Regional, Office, Nairobi: UNICEF.

United Nations Commission for Africa (1994), *Platform for action, Report of the fifth Regional Conference for African women*, Dakar, Senegal.

World Bank, (2002). *Women Key to Effective Development, Bank Says: Experts Say Gender Inequality* (Washington, D.C.:World Bank Group. Retrieved (August 29, 2008) from the World Wide Web:http://en.wikipedia.org/wiki/Liberal_feminism.

Language teaching at Rwanda Tourism University College (RTUC), challenges and perspectives

By Professor Tembue Zembele
wa Ololo¹²⁰

Abstract

The paper discusses the issue of communication skills among RTUC students with focus on the disparity between student language identity and their current performance as a result of poor language background, a restive adaptation of teaching approaches and an inadequate student analysis exacerbated by a too high teacher-student ratio, a 'teach and go' attitude among language lecturers and a simplistic analysis of students' learning needs. The analysis of the data reveals that 83 % of the sampled students are hardly bilingual in both French and English against 88 % of the same group who still have difficulties communicating in writing.

Key words: challenge, communication skills, language background, bilingual, teach and go, disparity, student analysis.

Background

In order to impart equal education to all Rwandans in a view of transforming the country into a knowledge-based and technology-led economy, the Government of Rwanda has identified bilingualism as a way to bridge the Francophone-Anglophone divide towards the building of a unified nation whose foundation is the human capital.

¹²⁰ Doctor Tembue Zembele wa Ololo is Associate Professor in Linguistics and Vice-Rector Academic at Rwanda Tourism University College (RTUC).

Direction of Education, (2007), Report 2007, Rubavu district.

Dreze, J. and Amartya, S. ,(2002), "Introduction and approach", "Economic development and social opportunity" & "basic education as a political issue". Oxford: Oxford University Press,

Eshiwani, G.S. (1985), "Women's access to higher education in Kenya: A study of African opportunities and attainment in science and mathematics education" in: Journal of Eastern Research and Development, Nairobi. Vol. 15, pp.91-110.

Feldman, Sh.(1998), " Conceptualizing change and equality in the Third World" contexts" in Stromquist, Nelly P. (ed.): *Third World Women - An Encyclopaedia of Contemporary Issues*. New York and London: Garland Publishing, Inc., pp.27-28.

Geeta Sh. (2006), *Gender inequality in education and employment*, retrieved on (August 26, 2008) from the World Wide Web: <http://www.yesweb.org/summit/sessions/op.inequality.doc>

Karl, C. et al (1972), *Educational psychology and educational practice*, Charles Merril Publishing Company, England.

Kothari, C. R. (1992), *Research methodology: Methods and techniques*, 2nd edition, New Delhi, Wiley Eastern Limited.

Lips, H., (2000), *Sex and gender*. (4th ed), Mayfield Publishing Company, Mountain View, California.

Lorber, J. (1994), *Paradoxes of gender*, New Haven, Yale University Press.

Lumumba (2000), *Educational and Economic Reforms, Gender Equity, and Access to: Schooling in Africa*, retrieved (August 19, 2008) from the World Wide Web: http://www.arts.cornell.edu/poverty/Papers/Assie_Lumumba_education_reforms.pdf

Macionis, J.: 1999; *Sociology*, 7th edition, Upper Saddle River, New Jersey, USA

Macionis, J. 1999, *Sociology*, 8th edition, Upper Saddle River, New Jersey, USA.

McPherson P., (2008), *Higher Education in Africa: making a link between intellectual capital and regional development* NASULGC, A Public University Association

Ministry of education (2008), *Gender and education*. Retrieved (August 29, 2008) from the World Wide Web: <http://www.mineduc.gov.rw/spip.php?article22>.

Mukazi Mutanguha, O., *The education of the Rwandan Girl Child still constitute a major challenge*. Retrieved (August 28, 2008) from the World Wide Web: www.rwandagateway.org/education/article.php3?id_article=12025k

NEPAD Secretariat and UNIFEM Rwanda, (2006), *Independent Review Report on the Progress and Prospects of Gender Mainstreaming in Rwanda, 2000-2005*. Retrieved (August 29, 2008) from the World Wide Web: http://www.nepad.gov.rw/docs/final_rwanda_report_sept_1_2008_nb.pdf

Newman, D. (1999). *Sociology of families*, Pine Forge Press, California.

Potter, R.B. (2000), *Theories, Strategies and ideologies of development*. In Potter & Vandana, D., *The companion to development studies* (pp112-116).

Republic of Rwanda, Ministry of Education, Science, Technology and Scientific Research, (2003), *Education Sector Policy*. Retrieved (August 29, 2008) from the World Wide Web: http://www.education.nairobiunesco.org/PDFs/keydocs/Rwanda_Education_Sector_Policy_July_2003.pdf.

Rogers, M., F. (1998), *Contemporary feminist theory*, Mc Graw Hill, United States. Aarhus University, Spring.

6.3 Areas for further research

The scope of the study was limited in accordance with the objectives and research questions. It is, therefore, suggested that a national research covering the whole country be undertaken. This study was carried out in rural area, Nyakiriba Sector. There is, also a need to make a comparative study between the rural and urban areas. There is a need to carry out a research on gender imbalance on participation in Science and Technology Courses in Secondary and Tertiary Education.

BIBLIOGRAPHY

Allison H. and Randell, S. K., (2007), *Gender equality in education in Rwanda: What is happening to our girls?* Paper presented at the South African Association of Women Graduates Conference on "Drop-outs from School and Tertiary Studies: What is happening to our Girls?" Cape-town, retrieved (August 8, 2008) from the World Wide Web: <http://www.ifuw.org/rwanda/media/art-education.pdf>.

Amartya, S. (1999), *Development as Freedom*, Newyork: Anchor Books.

Amin, M. (2005), *Social science research, conception, methodology and analysis*, Makerere University Printery, Kampala, Uganda.

Ankerbo, S. & Hoyda, K., (2003), *Education as a means to women's empowerment approaches to development* (U-landslære).

Banda (2003), *Gender sensitive educational policy and practice: the case of Malawi*. Retrieved (September, 2008) from the World Wide Web: [http://209.85.135.104/search?](http://209.85.135.104/search?q=cache:fonal_policy_and_practice.The_case_of_Malawi_BE..doc/Gender%252Bsensitive%252B_educational%252Bpolicy%252Band%252Bpractice.%252BThe%252Bcase%252Bof%252BMalawi.%252BIBE)

[q=cache:fonal_policy_and_practice.The_case_of_Malawi_BE..doc/Gender%252Bsensitive%252B_educational%252Bpolicy%252Band%252Bpractice.%252BThe%252Bcase%252Bof%252BMalawi.%252BIBE](http://209.85.135.104/search?q=cache:fonal_policy_and_practice.The_case_of_Malawi_BE..doc/Gender%252Bsensitive%252B_educational%252Bpolicy%252Band%252Bpractice.%252BThe%252Bcase%252Bof%252BMalawi.%252BIBE)

Binauli, L. (2002). *African higher education institutions: responding to the challenge of gender equity in the University of Malawi with special reference to Chancellor College*. Paper presented at the Association of African Universities Open Day at Kamuzu College of Nursing, Lilongwe on 12th November

Boserup, E. (1995), *Women's role in Economic Development*, London, England: Earth Scan Publications, Ltd.

Dighe, A. (1998); "Women and Literacy" in Stromquist, Nelly P. (ed.): *Women in the ThirdWorld - An Encyclopedia of Contemporary Issues*. New York and London: Garland Publishing, Inc.

(iii) Public education about the intrinsic and instrumental value of women's education

The researcher found out that the culture and through attitude towards girls' education and beliefs are the hindrances for women's access on tertiary and high education. Therefore, it is recommended that public policy should compensate for the asymmetry in parental incentives to educate girls and boys by giving extra subsidies for girls' schooling.

This makes sense because many of the benefits of girls' education are public benefits, i.e. they accrue not only to the educated individual and her family but also to society in general - for example, lower infant mortality and fertility rates.

(iv) Provision of scholastic materials and implementation of policies for girls who leave school due to pregnancy

The findings show that another reason that impedes woman education is poverty. Even if primary education is free, pupils should get uniforms, books, and other necessary school materials. Therefore there is a need for a provision of scholastic materials especially for vulnerable. The findings revealed that the girl who becomes pregnant in a religious school is sent out of school. Thus it is recommended to the government to advocate the implementation of policies for girls who leave school due to pregnancy, especially in religious schools.

(v) Find scholarship for girls and women

The study finding revealed that some of girls do not go to public Universities because of lack of required scores. Thus, they are obliged to go in private Universities, and many of them excel when they arrived there. Therefore it is recommended to the Ministry of Education to find them scholarship so that they can go in public Universities.

Because there are girls and women who do not dare apply to study in public universities, the researcher encourages girls and women to apply for scholarships, including postgraduate scholarships.

6.2. VI. Recommendations for Community Level Interventions

Ban detrimental cultures beliefs and religious values

Culture, attitudes and religious beliefs have been found to be a hindrance to gender promotion in education.

It is therefore recommended that the communities abandon all discriminatory cultural and religious values and beliefs that societies hold. This can be achieved if the government bans discriminatory cultural practices through legal means.

Increase the number of secondary schools

The findings also revealed that there is a lack of secondary schools in Nyakinba Sector. The researcher, therefore, recommends that the number of secondary schools should be increased by building new ones by both government and private sector. These ones build and begins operations should charge affordable school fees.

Support orphaned girl children and eliminate child labor

From this study, the researcher found out that when in a household there are only orphans; the girls have to drop out of school because they have to take care of their brothers and sisters: to look for food, income, shelter, etc.

Therefore, the researcher recommends that local government should provide income, shelter, and fees to orphaned girls so that they can remain at school. The study finding revealed that some girls drop out of schools and go to work as house girls. Child labor should be also eliminated at all costs. This can be achieved through community campaign against it and through government legislation against child labour.

V. Conclusion

Education is central to the achievement of greater equality in society and investing in education of girls has especially powerful benefits, not only for civic participation and family health and welfare, but also positive implications for all other measures of development. Society also benefits in many ways from higher levels of women's education; from improved nutrition for children and lower birth rates, to the provision of skills necessary for Labour and Government.

Rwanda has made enormous good progress forward in improving access of boys and girls to education at all levels, and in promoting gender equality within the education system, but female students continue to lag behind in educational achievement and access, particularly at the secondary and tertiary levels, where girls' enrolment, completion and achievement rates are lower.

Girls are under-represented in government schools, and are instead more likely to attend more expensive and lower quality private schools and Universities. This situation prevails also in Nyakiriba Sector, which was the study area of the current research.

Despite an enabling policy environment, in Nyakiriba Sector which was a study area, a number of social and institutional barriers continue to prevent girls and young women from attending Secondary schools and Universities and from performing equally to their male classmates.

Ensuring the participation of girls and women is therefore fundamentally rewarding in terms of equity and also efficiency.

Gender-mainstreaming efforts are still inadequate at decentralized levels and are not well incorporated into educational policies at both districts and local levels and within both urban and rural schools.

VI. Recommendations

In order to overcome the anomalies identified already within the study, the researcher gives the suggestions.

6.1. Recommendations for National Level Interventions

(i) Increase awareness of the benefit of keeping female students at school

The researcher found out from the respondents that one of the causes of gender imbalance is that the girls drop out of schools because of many reasons such as marriage, lack of interest, housework, etc. Therefore, the researcher recommends that there should be an increase in the role of local government, mass organizations and parent associations in mobilizing and supporting parents to keep girls in school. These actors should increase public awareness of the benefits of girls' education, and social mobilization campaigns whose aim is to change attitudes and behaviors affecting girls' education at grass-root level.

(ii) Set rules and regulation for all schools

From the respondents, the researcher found that pregnancy is one of the major reasons that push girls to drop out of school. In the past, any girl who was pregnant would immediately be expelled from school. But the new Rwandese policy allows the pregnant girl and the schoolboy responsible for pregnancy to return to school after the birth of the child. However, many schools especially religious ones are gender insensitive to this policy. As a result, they only send the girl home. In some schools, students are not aware of this policy.

Therefore, it is recommended that all schools set rules and regulations that are made public to both staff and students.

Table III: Consequences of not educating women on socio economic development

Consequences	Frequency	Percentage
Lower level of education of children	60	16.7
Lower level of economic productivity and low income	105	29.2
High infant and maternal mortality	69	19.1
High birth rates	96	26.7
Other responses	30	8.3
Total	360	100

Source: Field data 2008

The findings of this study confirmed what UNICEF (2002) found out as an impact of gender imbalance on development. There is a number of factors, such as poverty, pregnancies, early marriage and the effects of diseases for instance the HIV/Aids epidemic.

This is obvious, because as revealed by the respondents, when a girl stays at home; she gets married very early, and thus, possessing more children. Furthermore, she does not understand how to avoid diseases such as HIV/Aids.

From this study, it was found that low levels of female school enrolment in Nyakiriba Sector significantly lowers the level of economic productivity and leads to low income and higher infant and maternal mortality.

The reason advanced by the respondents is that, an illiterate woman in Nyakiriba Sector when she is a farmer, does not master modern agriculture techniques; she mixes all the crops in the same slope of land, uses traditional methods of farming; and the consequence is that the yield remains still low.

Those who have been at school know that in order to have a good yield, they should use modern techniques; they have to use the selected seeds. Furthermore, if a woman has been at school, especially at University, it is very easy for her to get a job so that she earns money that enables her to improve living conditions of her household.

So, how can someone be gainfully employed without a good level of education? Experience shows that when income is in the hands of women, more money and attention flow to areas such as children's education, food and health.

The foregoing findings are also in agreement with findings from Tuyizere (2007), who found out that not providing girls or women with a proper education has negative returns to society overall as well as to the economy specifically. This is justified by the fact that education gives girls the skills and opportunities they need to become active contributors to their nation's development; illiteracy in women is an obstacle to health improvement.

The research found out that illiterate women have high birth rates. For them, "God gives children and is the one who brings them up." Thus, in rural areas, the researcher has observed that the family size is beyond 6 on average, and the illiterate women are responsible because they hardly understand family planning methods and if they do, they refuse to put it in practice. These findings agree with the findings of UNICEF (2002), in its report where it shows that the consequence of lower level of education for rural women is high birth rates, early marriage, etc.

According to Karl et al (1972), a family's attitude towards the education of their children makes a significant difference in the classroom achievements, parents may not be present in the classroom but have a profound influence on the ways their children view schools and learning. The extent to which parents support the school's objectives directly affects their children's academic performance.

The findings of this research agree with them because the results of this study shows that most uneducated parents especially women in Nyakiriba Sector incite their children particularly their daughters not to go to school so that they can help them to carry out housework; they don't supply them with necessary materials for school.

Because the parents are the first educators of their children, and are responsible for providing them with a physical and mental basis for learning, when those basic needs are not met, the girl child can hardly succeed.

References

Airasian, W. Peter, (2005). *Classroom Assessment 5/e*. Boston: McGraw-Hill.

Girardet J. & Cridlig J., (1996, 1998, 2000). *Panorama de la langue française*. Paris :

CLE INTERNATIONAL.

Girardet J. & Pécheur J., (2002, 2005) *Campus 1/2, méthode de français*.

Paris : CLE INTERNATIONAL.

Krashen, S., (1982). *Principles and Practice in Second Language Acquisition*. Oxford:

Pergamon.

Labov, W., (1972b). *Language in the Inner City*. Oxford: Basil Blackwell.

Langan, J., (2005). *English Skills with Readings 5/e*. Boston: McGraw-Hill.

Moore, D. K., (2007). *Classroom Teaching Skills 6/e*. Boston: McGraw-Hill.

Sysoyev, P., (1999). Principles of teaching English for Specific Purposes in Russia.

English for Specific Purposes - Russia, 11: 13-15.

Swan, M. & Walter, C., (1990). *The New Cambridge English Course for English*.

Cambridge: Cambridge University Press.

Vygotsky, L., (1978). *Mind and society*. Cambridge: Harvard University Press.