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The Nigeria State, Rule of Law, Good Governance and Development

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Abstract:

The paper tries to look at the bane of development in the Nigerian state and how rule of law and good governance could be the panacea for the development problem the country is going through. Using a frame work of analysis that emphasizes the linkage between institutions and their capacities to bring about development, the paper discovers that the practice of rule of law enhances good governance and development. It concludes that for Nigerian state to develop, it has to allow the practice of the rule of law in its entirety.

1. Introduction

Nigeria like most of her peers in the group of poor and underdeveloped countries has had largely convoluted development path from independence in 1960 to date. She has had to grapple with a myriad of problems which stultify economic growth, resulted in mass impoverishment, deepening inequalities, diseases and unemployment. (Kornhauser, 2008)

Attempts to unravel these problems by means of the adaption of orthodoxy of economic paradigms have failed. The bedrock of most of these paradigms is the rational choice theory, which holds that efficiency can only be achieved when individuals, households and firms pursue their variegated private entities would have advanced the common good of the commonwealth by pursuing purely private interests.

In an attempt to adopt these paradigms to solve the development problems afflicting Nigeria, the role and nature of the Nigerian State have been grossly understated. (Dibua, 2006)

In contradistinction to the foregoing, we argue that the nature of the Nigerian State and the inorganic state of its laws and institutions hinder economic development.

The study’s point of departure is that the Nigerian State lacks the capacity to affect the major changes which will catalyse growth, development and increased wellbeing.

The study posits that the lack of capacity of Nigerian State is due to the undifferentiated nature of its institutions. The nature and institutional characteristics of the Nigerian State stultify its economic growth and development. The study establishes a correlation between growth, development and the differentiated State institutions. The nature of Nigerian State inhibits its capacity to deliver on the Social Compact and compete effectively in the comity of nations. (Aron, 2000)

The crucial question which agitates this study is, what factors led to the lack lustre economic performance of Nigeria? The rentier economy of Nigeria, is characterized by overwhelming dependence on a single easy source of income, that is, petroleum resources; a shrinking real sector’ lack of economic growth, mass impoverishment, low literacy rates; inequity in the allocation of resources; limited access to health services and high rate of destitution among the urban poor. Between 1973 and 1992 Nigeria experienced 21 per cent change in Gross Domestic Product (GDP) per capita while GDP per capita declined by 23 per cent. The share of real sector’s contribution to GDP declined from 46 per cent in 1980 to 41 per cent in 1998. The manufacturing sector in Nigeria contributed 8 per cent of GDP in 1980 and declined to 5 per cent in 1998. While the share of the service sector contribution to GDP declined from 34 per cent in 1980 to 27 per cent 1998. (World Bank Report, 2000)

The pertinent question, then, is why has the Nigeria State failed in the growth and development process? The study posits that the Nigerian State lacks capacity, by using the institutional approach; the study seeks to highlight the fundamental factors inhibiting the States capacity to perform economically. The centrality of the State, law and institution of State is underscored under this schema. Thus, the resilience and differentiation of institutions of State will invariably impact on the capacity of the State to attain high economic performance. (Collier, 2008)

According to the neo-liberal school, economic failure in developing countries is as a result of the non-adherence to the tenants of the liberal free market economic paradigm which underscore trade liberalization; private sector led goal, and curtailment of the overwhelming presence of the State in the economic sphere. The pertinent question is however, why has Nigerian continued to drift after the application of this neo-liberal panacea? The drift of the Nigerian State is unremitting, because of the lack of synergy and interaction between this plethora of wide arrays of neo-liberal models and economic policies based on paradigms. Adaptations of such models fail in Nigeria because of the peculiar structure of the Nigerian State. The State lacks capacity in Nigeria; and is characterized

by undifferentiated institutions and inorganic laws, inefficiency in the husbandry of resources, low intellectual input in government and corruption pandemic. (Posner, 2009)

As a result, the orthodoxy of macroeconomic paradigms and policies has failed from the 1980s. The failure of orthodoxy or neo-liberal policies in the first half of the decade, as earlier adumbrated, is attributable to external shocks and globalization, wrong economic choices and inconsistencies but most importantly, the progressive and consistent erosion of the States institutional and administrative capacities. Further policy experimentations also collapsed owing to the unconscionable state of the rule of law; and military dictatorship; rising nationality conflicts and the State's inability to implement its decisions due to corruption and the refraction of such policies through the ethnic and sectional interests. The legacy of the 80s and 90s include deepening social cleavages; highly volatile politics; international isolation; a severely weakened State and a totally alienated populace. (Okogbule, 2006)

While the study is by no means oblivious of the success and positive impact of neo-liberal models in certain development States, particularly the Asian emergent economies, it however departs significantly from the unqualified assumption of the neoliberal school that these models collectively represent panacea for redressing the development deficits of the group of very poor underdeveloped countries. (Amsden, 2001)

In contradistinction to the foregoing neo-liberal tenet, the study argues that macro-economic orthodoxy can be efficacious only where certain antecedent conditions have been met, of which the most fundamental are, that the institutional capacity of the State be high, there must be the rule of law as development can only occur in an environment of formal rational law, where expectations are not willfully disparaged, transparency and zero tolerance for corruption. (Cooter, 1997)

Economic paradigms and policies predicated on market fundamentalism suffer several inanities. For one, despite the adaptation of macro-economic orthodoxy, Nigeria and preponderance of underdeveloped nations have slid deeper and deeper in the mire of poverty; this raises questions about the internal precision of the Washington Consensus and cast doubts about the efficacy of economic policies predicated on them. (Jomo, 2005)

Secondly, the Washington Consensus fails to address the pervading inequities in most development States. Thirdly, while the Washington Consensus underscores the significance of good governance in economic development, it grossly understates the centrality of the State, its laws and institutions in development process. (Chang, 2003)

Thus, the study argues that the nature of the Nigerian State and its institutions are crucial to its development, it equally posits that its lack lustre economic performance is due to lack of State capacity. It avers that macroeconomic orthodoxy, rule of law is in themselves, dependent variables, dependent on the nature of the State, its institutions and organizational structure. Where for instance there is lack of intellectual input in governance, this can only occur where technocratic are not employed on merit, there are bound to be distortions within organization of State, such personnel invariably are most prone to corruption and subversive of corporate existence of the State in preference for promotion of purely personal and sectional interests. Where that is the state of affairs as is the case in Nigeria, bureaucrats are more inclined to undermining the rule of law and due process than upholding them. That outcome will invariably hold, without prejudice to the constitutional entrenchment of lofty ideals of the rule of law. State organizations are not entities in abstraction they are the sum of variegated individuals; rules and procedures contrived to ensure that they function optimally in furtherance of the objective principle of State policy which informs their establishment. Where the State is characterized by corruption pandemic and lack of meritocracy, State officials, will undermine rules rather than enforce them, this phenomenon is pervasive in the Nigerian Structure. (Morales, 2003)

In itself, the foregoing portends great danger for the survival of the Nigerian nation, for it is within organizational structures that best practices which determines whether rules are enforced are deliberately cultivated as enduring values and tradition. Equally, organizational structures also serve as platforms for the intermediation of conflicts with a view to building compromises and consensus in the allocation of scarce resources. The rentier State structure in Nigeria is an antithesis of the ideal organization structure of the State which is contrived for the articulation and enforcement of rules which can catalyse growth and development. (Anderski, 2008)

2. Theoretical Framework

The study adopts the framework which underscores the inherent institutional characteristics of the Nigerian State; and its relationship with socio-economic and political actors invariably impacts its economic performance and capacity to deliver on the social compact and sustain international competitiveness. Thus, the study argues that State with resilient laws and legal institutions and other institutions of the State generated by enduring values attain growth and development over and above State characterized by inorganic, undifferentiated and weak institutions. (Stein, 2008)

In its attempts to determine the features of a State which leads to the foregoing outcomes, the study analytically and conceptually underscore the centrality of institutions and law, the two variables are mutually reinforcing. The study highlights the function of a competent State, which capacity for prompt intervention has not been compromised. Accordingly, the study shows that the institutional characteristics of the Nigerian State impact in no small measure on its economic and social performance. The study found that successful economies are those that have nurtured institutions which have the features of meritocracy, absence of ascriptive roles, rationality driven, political plurality, lack of social stratification, non-existence of absolutist and personalized governments, psychological acceptance of laws by the citizenry, strong judiciary, transparency and zero tolerance of corruption. A State's economic performance invariably is a function of the extent to which these features characterize its institutions. Meritocracy and well defined career trajectories create organizational harmony, efficiency and inclination for embarking on long ranged goals. By increasing the intellectual input in governance, the foregoing negates the prospect of rent-seeking behaviour, it also increases the capacity of the

State to engage with and secure the cooperation from civil society; business; labour and groups regarding its policies and projects. Thus, the study argues that State-business, civil society relations constitute a veritable source of State capacity, and therefore impact economic performance. It also establishes a link between participatory/consultative structures and process rather than coercion. (Claque, 1997)

Where technocratic elites are highly knowledgeable and meritoriously recruited, well-paid with well-defined career paths they will most likely ensure efficiency and minimize corruption and ensure that resources are efficiently allocated pursuant to economic and social well-being of the citizenry. (Silva, 2009)

In contrast, where recruitment is predicated on patronage and ascription, a culture of waste; inefficiency and corruption will be the norm as bureaucrats are more inclined to being loyal to patrons and pursuance of purely private goals. Such bureaucrats are wont to divert and siphon resources from productive poverty reducing policies and projects to ruinous and compulsive consumptive projects and policies. (Meir, 2000) That granted, an efficient bureaucracy requires to be complemented by a political elite which guarantees the accountability of the bureaucratic elite. It is only in this way that efficiency and optimalisation can be achieved in the husbandry of resources. (Heller, 2009)

In contradistinction to the foregoing, articulated policies and paradigms will fail where technocratic elites are preoccupied with the pursuit of individual private interests and maximization than successful execution of State policies. Policies will not be predicated on economic rationality, but rather on private and individual agendas to capture public resources for personal gains. Bureaucrats pursue a life style of consumption and primitive accumulation in Nigeria with concomitant untoward effect on the overall economy. (Smith, 2008)

Equally important is the caveat that where State capacity is mobilized to make wrong economic choices in the wrong sectors by promotion of narrow interests such as Nigeria's building of huge steel complexes that never rolled out any steel since commission and embarking on various white elephant projects which have low salvage value and abandoned projects contrived for the purpose of despoliation rather than economic rationality, these will impact negatively on economic growth and development. (Steward, 2009)

Another fear in Nigeria is the rising spectre of institutional capture with its concomitant rent-seeking proclivity, which invariably disparages economic transformative programmes. Public/private sector cooperation and synergies are contrived between the Nigerian State and society pursuant to generating purely distributional coalitions rather than meaningful economic transformation and equitable distribution of resources. Such coalitions are contrived pursuant to obtaining from the State purely private gains for individuals and groups to the detriment of the commonwealth. However, where the State organizational structure is characterized by meritocracy, transparency and zero tolerance of corruption, the State can insulate itself from the danger of institutional capture and renteering. It will also discourage socio-economic players from annexing institutional ties to curry favours and patronage from bureaucrats and the State. (Puguitt, 2007)

In Nigeria, the State-society relation is too paternalistic, vertical and axial. Businesses, professional associations, labour and civil society have been deliberately weakened and fragmented with low resources endowment to meaningfully compel accountability of the State. The foregoing perhaps constitutes the reasons for the rather low capacity of the Nigeria state to a modern State economy. (Midgal, 2007)

According to Nicolas Van de Walle (2001) the African States highly fragmented, composed of divergent interests and permeated by patrimonial networks that link its top echelons with the most isolated villages. At the same time, however policy-making processes in the State apparatus are relatively impermeable to pressures from economic and functional interest groups. The paradox is only apparent; for though the State is weak and its capacity to implement desired policies severely limited, its monopoly on coercive power and the absence of significant independent non-State institutions grant it much autonomy.

Thus far, it has been demonstrated that the capacity of the Nigerian State to affect the far-reaching changes pursuant to transforming its economy and catalyzing growth and development must be predicated on the resilience of State institutions and the reciprocal cooperative relations between these institutions, and with society, national and international power centres. High economic performance and or under performance depends on a largely insulated State bureaucracy characterized by meritocracy, rationality, transparency and zero tolerance of corruption, duly complemented by political elites who have a clear vision of those far-reaching changes that will transform the economy. (Stein, 2009)

3. The Rule of Law, Good Governance and Economic Development

The rule of law is a *sine qua non*-for good governance, efficiency and optimality in the husbandry of resources, growth and development. In itself, the doctrine of the rule of law connotes the centrality of law and its institutions in a polity. It denotes the absolute supremacy and pervasiveness of formal rational law over and above the exercise of arbitrary power, prerogative or unfettered discretionary authority. Where ever there occurs a rule of law deficit, such a polity is invariably characterized by anarchy and chaos and a total lack of rein on the economy. Our task in this segment is to demonstrate the untoward impact which an unconscionable state of the rule of law has on growth and sustainable economic development. It is however apposite to attempt a characterization of the doctrine of the rule of law before we embark on this task. (Cooter, 1996)

Since the dawn of human history, the doctrine of the rule of law has come to mean several things to all manner of people. The doctrine has come to be associated with democracy, constitutionalism; fundamental human rights; legislative supremacy; independent judiciary; law and order and its converse, corruption. (Dam, 2003) It engaged the interest of ancient thinkers who elucidated on its theoretical and philosophical foundation. Aristotle opined that, 'the rule of law is preferable to that of any individual,' he stressed that 'law should be the final sovereign; and personal rule, whether it be exercised by a single person or body of persons, should be

sovereign in only those matters which law is unable, owing to the difficulty of framing general rules for all contingencies,' the import of Aristotle's formulation is that it establishes the centrality of law, such that every act or omission of every official of State, organ of State, and the citizenry are constrained by law.

Thus, to Aristotle, the law alone constitutes, the benchmark with which to determine the propriety of human and institutional conducts whether by way of conformity with particular legislation or the constitutionality of governmental actions or omissions and the constitutionality actions and omissions of institutions of state. It also alludes to the hierarchical nature of norms which constitutes a legal order. In this hierarchy, the constitutions are the *grundnorm* in which the ultimate prescriptive power lies, it is the source of all laws, and it delineates the bounds of governmental powers and the limits of the powers of every institution of State. It divides powers between every organ of State to facilitate control between them and thus prevent abuse of power. It provides an institutional mechanism for horizontal accountability and answerability. (Shkta, 1998)

That granted, there is as yet, no internationally accepted characterization of the rule of law. Its major features are: the hierarchy of norms, equality before the law and non-discrimination, the government is subject to the law. In its instrumental application, it is employed as device to actualize human rights and gender equality, a key element for good governance, poverty reduction, economic development, peace and stability. Thus, the context in which it is being examined and applied invariably determines and shapes its characterization. That however should not constitute a source of mistiness as the doctrine's differing features have the quality of reciprocally reinforcing one another. In fact, they constitute link in a chain in which the strength is determined by its weakest link. (Peerelboom, 2002)

The rule law is perhaps the most central tenet of constitutionalism, it is equally a device for realizing human rights and democracy, a *sine qua non* for good governance, and it defines how public affairs should be conducted in a nation. Good governance and the rule of law facilitate the creation of a stable and peaceful socio-political and economic environment in which the citizenry is able to realize their full potentials, coexist peacefully with other groups and guarantee human rights for all. The law remains central, a crucial instrument of the State in the conduct of its affairs. To this connection, the rule of law defines, and legitimises the conduct of the State and its institution and the manner of its relationship with the citizenry. The law determines the allocative process of resources and establishes the rule for access to resources and for political, economic and social conduct. (Tamanha, 2004) Thus, irrespective of whatever is the thematic priority or preference in the consideration of rule of law, its variegated features are cross-cutting with one dependent, deriving, associated and predicated on the others. (West, 2003)

The doctrine as presently known has its watershed in the upsurge of liberal thinking of the Middle Ages, which was a counterpoise to the design of kings on arrogating absolute power to themselves. For examples Bracton wrote, 'the King himself ought not to be subject to man, but subject to God and the law, because the law makes him King,' (Turner, 1985) Due to different national histories and experiences the term has long been susceptible of many usages in different legal systems, economic and political contexts. When viewed within the prism of absolutist and authoritarian rule, the law is seen and appropriated by the political elite as an instrument for imposing their will and pursuing purely individual and group interests, legitimized by formal State laws and judiciary institutions. It may also be restated as 'ruling by law' by the dominant political group in a polity. A distinction could also be made between the rule-of-law State and the rule-by-law State. (Tamanha, 2006) The last formulation of the doctrine represents an unwholesome accretion which underscores the fact that the doctrine is not only prone to misapplication but is potent weapon at the disposal of the aberrant State to justify and legitimise its actions. In liberal democratic context, the rule of law impels State institutions to function horizontally and autonomously in pursuit of the long-term interest and survival of the nation as expressly prescribed by the constitution and the laws of the land. (Ganburg, 2008)

In a more contemporary formulation, A. V. Dicey based his characterization on three props, he posits:

1. Firstly, it means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government. Englishmen are ruled by the law, and by the law alone; a man may with us, be punished for a breach of the law, but he can be punished for nothing else.

2. Secondly, it means equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary law courts; 'the rule of law' in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.

3. Thirdly, the rule of law may be used as a formula for expressing the fact that with us laws of the constitution, the rules which in foreign countries naturally form part of a constitutional code are not the source but the consequences of the rights of individuals, as defined and enforced by the courts. (Dicey, 2005)

The significance of Dicey's formulation lies in the fact that it underscores the need to have a rein on government powers and that whatever the plenitude and amplitude of power it must be exercised within the ambit of the law existing in the legal order. A corollary of the foregoing is the condition which every legal order must fulfil, that is, the uniform application of the law to every class of people in the land irrespective of their status. (Dicey, 2005)

In his formulation, Wade highlights five meanings of the rule of law:

Its primary meaning is that everything must be done according to law. Applied to the powers of government, this requires that every government authority which does some act which would otherwise be wrong or which infringes a man's liberty must be able to justify its action as authorized by law. Every act of government power, that is, every act which affects the legal rights, duties or liberties of any person, must be shown to have a strictly legal pedigree.

The secondary meaning of the rule of law is that government should be conducted within a framework of recognized rules and principles which restrict discretionary power.

A third meaning of the rule of law, though it is a corollary of the first meaning, is that disputes as to the legality of acts of government are to be decided by judges who are wholly independent of the executive.

A fourth meaning is that the law should be even-handed between government and citizen. What the rule of law requires is that the government should not enjoy unnecessary privileges or exemptions from ordinary law.

The rule of law has other important meanings outside the sphere of public administration, for example, in the principle that no one should be punished except for some legally defined crime, it is made a rallying cry when any in road is threatened upon certain ideals which underlie the legal system. (Wade, 1971)

While establishing the centrality of law in a polity, Wade's formulation also underscores the need for a horizontal relation of powers between co-ordinates organs of government on the one hand and between the State and the citizenry on the other. (Wade, 1971)

Determined to pursue its rule of law programme, the United Nations attempted its official characterization of the rule of law in a report of the Secretary General to the Security Council on the Rule of Law and Transitional Justice, thus:

The 'rule of law' is a concept at the very heart of the United Nations Organization's mission. It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles or supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision making, legal certainty, avoidance of arbitrariness and procedural and legal transparency. (Report of the UN Secretary General)

The UN's characterization mirrors the growing departure from traditional positivist characterization, it undergoes the position that the rule of law is not tantamount a formal legality which guarantee regularity and consistency in the achievement and enforcement of order, but rather justice predicated on the realization and full adherence to the supreme values of the human personality and secured by institution which provide a structure for its fullest ventilation. (Report of the UN Secretary General)

According to James Wolfensohn, a former World Bank President, a comprehensive development framework should address legal reform issues in the following terms:

Without the protection of human rights, and a comprehensive framework of laws, no equitable development is possible. A government must ensure that it has an effective system of property, contract, labor, Bankruptcy, commercial codes, personnel rights laws and other element of a comprehensive legal system that is effectively impartial and honest judicial and legal system. (Ohnesorge, 2006)

In similar vein, the World Bank's 2004 initiatives in legal and Judicial Reform, defines the rule the law as a state of affair which exist when:

- i. The government itself is bound by the law
- ii. Every person in the society is treated equally under the law,
- iii. The human dignity of each individual is recognized and protected by law,
- iv. Justice is accessible to all. The rule of law requires transparent legislation; fair laws, predictable enforcement, and accountable government to maintain order promote the private sector growth, fight poverty and have legitimacy. Legal and judicial reforms are a means to promote the rule of law. (The World Bank, 2004)

The forgoing represents the Washington Consensus rule of law definitions, its significance lies in the inclusion of human dignity, fighting poverty and legitimacy, ideals which are dear to those who impugn the International Financial Institutions prescriptions as too market orientated. It has augmented the rather narrow neo-liberal emphasis on privatization, deregulation, property rights protection, and controlled bureaucracy. Skeptics have however highlighted the fact that North East Asia's phenomenal growth occurred in spite of the gross violation of the Washington Consensus rule of law and the tenets of 2002's comprehensive development rule. (The World Bank, 2004)

The state of the rule of law has a tremendous impact on economic development of a nation. For one, the constitution, variegated codes, rules and laws establish the State structure, and the legal framework, and creates an environment of formal rational law wherein socio-economic and political actors will have their conduct so rationalized by a diffusion of law that such conducts are properly channeled towards development appropriate behaviours in contradistinction to purely opportunistic behaviour in the public and private domain and the overall economy. (Trubk, 2006)

The rule of law catalyses a complex process within the State structure which derives from the amplitude, plenitude and latitude of sovereignty. This process is effectuated by instrumentality of a corpus of laws, through the agency of variegated institutions, which are contrived to impact positively on growth, forces of development and ultimately on the citizenry who in their respective private capacities must behave and conduct themselves within the bounds of the law. (Trubk, 2006)

The instrumental value of the rule of law is predicated on the reconciliation of two planes of sovereignty, within a polity, that is the public and private domain/ this scheme is preferred to the tendency in the literature to focus on governance crisis and dwindling State capacity within the public domain without thereby redressing the acute cases of corporate governance failures in the private domain. (Malloy, 2000)

Thus, good governance in the public domain must be complemented by development appropriate behaviour by every actor in the economy. While we are not discountenancing other applications to which the doctrine of the rule of law can be put, our attention is focused on the impact which an efficient and effective legal system makes on efficiency in the husbandry of economic resources, economic growth and development. The relationship between law and economic efficiency was dwelt upon by Adam Smith in his

'lectures on jurisprudence,' where he states that a factor which 'greatly retarded commerce was the imperfection of the law and uncertainty in its application,' thus where the law has suffered malfeasance, and there is a wide room for arbitrariness and discretionary use of power both in the public and private domain, that is, in corporate governance, there will be entrenched corruption both in the public and private domain. Acute official systemic corruption particularly hampers the clear definition and enforcement of laws, hence, according to Smith, a great deal of constraints is placed on commerce. (Smith, 1982)

The structure of the institutions of State allied with a high degree of legal discretion creates ample opportunities for officials and politicians to subject public funds to despoliation, particularly where a great deal of power is concentrated and vested in a few individuals and group; lack of procedural transparency; uncertainty related to existing laws, regulations, doctrines and codes. (USLANE, 2008) There is a positive correlation between the rule of law and 'good governance' the doctrine of the rule of law perhaps constitutes the most significant element of good governance. The legal order determines the nature of governance in the public domain; it controls the exercise of State's regulatory powers and guide line for the execution of public functions. (Munshi, 2004)

Thus, good governance is a necessary condition for sustainable growth and development. Governance is the process by which the institutions of State carry out their functions, the nature of the State relationship with the citizenry, civil society and the private domain is crucial in the development process. (Poluhe, 2002) Among other things, good governance implies that the polity affords all manner of people the opportunity to make input to State policy; the government must be accountable; transparent and efficient in its management of public resources and must have zero tolerance for corruption; ensure equitable allocation of resources and access to public services and justice. (Poluha, 2002)

The rule of law is fundamentally related to good governance. For one, it encapsulates accountability. The responsibilities of authorities at every level of governance are defined by binding rules. These rules serve as standards by which officials are held accountable for their acts or omissions. The judiciary must constitute an autonomous entity and bastion for holding those who are temporary custodians of public resources accountable. (Peruzzotti, 2006)

Secondly, the rule of law guarantees transparency in governance. The process of electing between alternative decisions is conducted by adhering to strict procedures and predetermined rules rather than arbitrary and discretionary opportunistic behaviour of officials. The rule of law provides a judiciary arm which insulates the legal domain available for the expression of critical dissents, and creates a space for participatory decision making process. (Peruzzotti, 2006)

The efficiency and effectiveness in the husbandry of public resources induced by the rule of law increases transparency and accountability, as the legal framework under the rule of law will be coherent with an independent and impartial judiciary bringing every other organ of State to account for their acts and omissions. (Peruzzotti, 2006) The legal order is not ideologically neutral. The notion of development is characterized by asymmetrically representations. Thus, the political environment in which development is to be effectuated is crucial to the attainment of the developmental goal and whether set goals have been equitably determined.

The legal order establishes the rules for the allocation of power and resources; defines the nature of the relationship between the citizenry and the state, variegated individuals; group and economic actors in the private and public domains. In itself, politics connotes the relation of power, the exercise of power to determine the utilization of productive forces in the production process, that is, alternative use of resources. It determines the allocative process of resources. Politics is the process by which conflicting interests are reconciled in a polity. However, where the body *politik* is characterised by lack of political plurality, civic culture, integration of divergent ethnic nationalities to form a nation State and democracy, then the process of reconciliation of conflicting interests will be convoluted and skewed. The ideal political system thereof, will be that which gives voice to divergent opinions, equal representations of variegated interests, social justice, equitable distribution of powers, equity in the allocation of resources and most importantly, the rule of law. (Kerrushi, 1992)

The political system which best fits the foregoing characterization is arguably a democracy. Under a democracy, there is a democratically elected legislature which provides for the even and proportionate representation of variegated groups and competing interests encompassing the broad spectrum of the citizenry. Representative legislative process confers legitimacy, majesty and authority on the State and its laws. (Pejobich, 2008)

The hierarchy of norms which is an important feature of democracy makes the constitution the basic norm from which regular laws and executive decrees must ultimately derive their validity. Thus, the rule of law confers legislative supremacy on the legislature by means of the principle of separation of powers; hence parliament has a significant role in establishing the legal basis of public through the process of law making. (Tireney, 2006)

The rule of law induces inclusive and effective political participation. For one, the separation of powers between coordinate arms of government insulates the judiciary from executive usurpation of judiciary powers. An independent judiciary arm has suffered malfeasance and has become dedicated instrument of powerful groups and interests, democratic institutions become farcical. The judiciary must guarantee freedom of expression, safety and integrity of dissenting voices that have elected to challenge acts of State before the Courts. (Dyznhaus, 1999)

Secondly, the hierarchy of norms established under democracy aside from constitutional validation of laws also contains within definable bounds, political decision making at all tiers of government. In a democracy, there is rule of law State in contradistinction to the rule by law State. In the rule of law State, authorities at all levels of governance are bound by the constitution and the relevant laws. Where decisions, act or omissions violate the provisions of the constitution, they remain void and *ultra vires* the powers conferred on the authority by the constitution or the law which ultimately derives its validity from the constitution. (Dyznhaus, 1999)

By enshrining the principle of equality, the rule of law can break the cycle of multi-dimensional and inter-generational poverty by promoting the empowerment of the poor and all excluded groups, like women, minorities and the physically challenged. (Trubek,

2006) Through the principle of equality, the rule of law confers on all citizens irrespective of their status equal access to public services such as health, housing and education. It also ensures equitable allocation of resources like land and its variegated appurtenant. Where the allocative process is inequitable and favours the dominant groups, the principle of equality provides a platform for the disadvantaged and disenfranchised poor to break out of the cycle of poverty. Judiciary machineries propelled by the rule of law provide the opportunity for the instrumental use of the law to redress injustice in the distribution of social goods and services. (Costa, 2007)

In a democracy characterized by the rule of law, rules and norms apply to all citizens irrespective their social and economic status. Rules are applied by State authorities not only when the weak and order in its operation does not apply rules differentially on the rich and powerful, then the rule of law can be annexed for the empowerment of the poor and voiceless individuals and groups in the polity. (Costa, 2007)

By curtailing arbitrariness and discretion of State authorities, the rule of law rids the polity of corruption, which is the hydra-headed monster which shuts out the weak and poor from realising their potentials by making public services more accessible to poor individuals and groups who cannot afford gratification in cash or kind which corrupt government officials, judges and variegated service providers demand as a pre-condition for rendering the services which they are remunerated to render. (Peppers, 2009).

Conclusion

It is clear that where the rule of law is practiced there will be good governance which will necessarily translate to growth and development in the society. This should be the concern of any government that is genuinely interested in bringing about development and progress to its citizenry.

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