

How Can Rule of Law Reduce Poverty and Foster Economic Growth?

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Abstract

Rule of law basically, in the context of economic growth, advocates the right to development, and exercise of this right is significant in the fight of reducing poverty to improve the lives of citizens.

Economic growth which results development encompasses change of the entire society in the direction of the ideals of modernization, and the concept of rule of law is vital in this regard to enable citizens to hold their right to development in fostering their economic growth at individual and national country level. And in sum the economy of the world. The United Nations General Assembly adopted the Declaration on the Right to Development on December 4, 1987. Following this Declaration, many countries' constitution and other laws have made their part.

The major objective of this paper is to investigate the role of Rule of law in promoting the right to development to foster economic growth. Law has unduly a pivotal role in promoting the right to development particularly through changing the behaviors the individuals, government, the civil society, the media...etc which are stakeholders of development as to translate the concept into practice. The writer has used qualitative and analytical legal research methods.

1. Introduction

Although the manifestations vary from one nation to another nation, poverty is a multi-dimensional² and long-lived problem of mankind in our globe. Poverty do not only deprives current needs of peoples and their aspiration to enjoy the better continuity of their lives but also takes their power and capacity to improve tomorrow's life away in advance. As such, "poverty denotes people's exclusion from socially adequate living

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² Said Adejumobi, Governance and poverty Reduction in Africa: A critique of the poverty Reduction Strategy papers(PRSPs), Economic Community of West African States(ECOWAS), Abuja, Nigeria, p.5

standards and it encompasses a range of deprivations.”³ So poverty can throw the lives of everyone towards inconveniences and thereby their existence would be at stake, then its reduction and alleviation has no choice for global security and prosperity.⁴ Most often this thorny problem triggered from lack of Rule of Law in the world. Working on Rule of Law is highly rewarding to reduce poverty and foster the economic growth of the world.

In the absence of Rule of Law, citizens will be deprived of their right of participation on political affairs, causing political influences on the political realm of their country; nothing could be touchable to them except being the subject of the ruling government of their country, homeland.⁵ But when Rule of Law comes to view for such kind of docile peoples, there is no reason not to wear the tent of poverty out and foster economic growth ahead soon. But the question resides on the approach to achieve our very purpose.

This essay will focus on pinpointing how Rule of Law can reduce poverty and foster economic growth. This will be done through identifying the problem and the causes thereof, the prevalence, and the reaction for the identified problems. Finally, the essay insights on rule of law related remedial measures to be taken, or addressed by the concerned bodies. Before that it is apt to establish the relationship of Poverty, Rule of Law and Economic Growth.

2. Poverty, Rule of Law and Economic Growth

Willy Mutunga, Chief Justice of the Republic of Kenya and President of the Supreme Court recently wrote “By choosing the path of allegiance to law, Mandela cast himself on the right side of history. It made him bigger not smaller.”⁶ We can infer from the saying that having respected the law and order, there is nothing which cannot be challenged. So fighting poverty with the help of principles, guidelines and frameworks of Rule of Law, we can defeat poverty and our economic growth will boom. Additionally, we can learn from Mandela’s experience that, his honoring of issued court orders made to him, acceptance and acknowledging of court decisions for his life imprisonment and being committed to his visions not to be engulfed by his enduring challenges; he could declare that the end for obedience to law enables to become a winner someday. We have to expect obstacles in the fight against poverty to foster our economic growth even though we are always in line with the principles, or tenets what the law and order favors to do so. This is not only our mere commitment and endurance that leads us to a better place of achievement, but also Rule of Law renders the ability to plan our affairs with reasonable confidence in order to identify tomorrow’s legal consequences in advance and shields us

³ The DAC Guidelines poverty Reduction, and International Development, 2001,OECD(Organization for Economic cooperation and Development) publication service, Paris, cedex 16, France, p.18

⁴ Id,PP.15-16

⁵ Supra note 2

⁶ WWW.standardmedia.co.ke/?article ID=2000100127&STORY_TITLE=Mutunga-Mandela-personified-respect-for-rule of-law, accessed 18/12/2013

from bad results that mischief of officials may endanger our existence and struggles⁷ while confronting with poverty reduction challenges. From this, we can understand that Rule of Law has dual roles. These are, as a means to tackle poverty and as a protector of peoples who engaged themselves in the work of poverty reduction.

Rule of Law has also a tight relationship with the notion of development in respect of ensuring property rights, performance of contracts, and lessening of corruption.⁸ Rule of Law is also of fundamental importance in respect of resolving investment risk. Promoting security and stability sought for fostering economic growth. Rule of Law is also a suited device for poverty reduction when the poor suffers from crime. It is Rule of Law which assists them to access the justice that makes them relieved from deviants they encountered by making good the damage they have sustained with a future reliance on the protection of their democratic rights by the government which rules in accordance with a law. If Rule of Law has such kind of role, it is apt to raise its contribution towards minimizing the widely hurting poverty in the arena of access to justice for those who are incapacitated/unable to reach at the place where the law rules.

3. Challenges to the Poverty Reduction endeavor and the road to Economic Growth

Core of the problems in the global world that stick many of us to poverty are corruption and violation of human rights. Especially single party authorization regimes are easily vulnerable to corruption and violation of human rights. It is because in such regimes there is no means of ascertaining the legitimacy of the governments through election.⁹ This is what is vividly evident in most African countries. As such corruption problems become worsen and untold in countries where the above kind of ruling are at the top.

Another problem that can be mentioned here is lack of access to justice. In a country where political power is to be assumed via undemocratic means, it is an inevitably that that power is monopolized and all is done at the wish of few officials. In such condition, due to undetermined and unstable law of the nation, citizens are not secure in their persons and property and they are not in a position to plan their futures having respected the inherent rights which they would have in a democratic system of governance.

Lastly, the other cumbersome factor in the fight for poverty is lack of education and equal right to education. Rule of Law is by itself cannot be at motion, instead individuals need to have conceptualize what Rule of Law, poverty, and economic growth are with the skill to bring the good at hand and to throw the bad away. Law enforcement could not be

⁷ Thomas B.Nachbar, Defining Rule of Law Problems, University of Virginia, School of Law, Spring 2009, p.30,306-307

⁸ africajusticefoundation.org/our-blog-news-and-events/the-rule-of-law-in-the--post-2015-development-agenda/, accessed 17/12/2013

⁹ African Development Bank Economic Research Papers , "Governance and poverty Reduction in Africa", Professor P.Anyang'Nyong'o, The African Academy of sciences, 2001 Nairobi, Kenya , P.5-6

easy and touchable in a nation which inhabits a great deal of illiterate peoples who do not know what the concept of rule of law. “Clearly law is not the sum of courts, legislatures, police prosecutors. And other formal institutions with some direct connection to law. Law is also a normative system that resides in the minds of the citizens of a society.”¹⁰ From this, it is possible to understand citizens need to have awareness on the laws of their country. So a mere formulation of laws is not sufficient unless it is communicated to the peoples who are intended to be governed via the tool of education.

4. Rule of Law as a Tool in Addressing Challenges of Poverty Reduction and Fostering of Economic Growth

4.1 Government Bound by Law

The Rule of Law is, by which originally conceived, is to make the state abide by the law so as to avoid arbitrariness and the government must exercise its functions based upon pre-existing laws, and changes should have to be pursuant to established legislative means on those currently working laws.¹¹ When the government executes all of its activities as the law orders to do so, or not to do so; accountability and transparency would be achieved, then the corruption become less problematic. Hence, every individual citizen will have equal opportunities to improve their living standards and accumulation of wealth by handful number of officials abolished. After all the best notion of Rule of Law is conceived as Mandela said as follows:

“The Rule of Law, as I (admittedly, a long tired old lawyer) understand it, refers to a structural exercise of rules as opposed to the idiosyncratic will of kings and princes. Even where the latter may express itself benevolently, the former is morally and politically superior. Where the Rule of Law does not apply, rulers assume entitlement to rule; the Rule of Law on the other hand places the emphasis upon structured responsibility and obligation.”¹²

4.2 Legal Empowerment: For Access to Justice

This is a mechanism where Rule of Law is materialized endowing and respecting property, labor, and business rights¹³ to secure individuals’ economical interest, change

¹⁰ History and Importance of Rule of Law, White paper in companion to the Final Report of the Task force on ABA Goal 8 ("Task FORCE Report"), p.30

¹¹ Rachel Kleinfeld Belton, Competing definitions of Rule of Law: Implications for practitioners, CARNEGIE PAPERS, Rule of Law Series, January 2005, No.55, P.3 and the ff. It is also Available at WWW. Carnegie Endowment, last accessed 24/12/2013

¹² What is Rule of Law? A statement by Leon Louw at the African Regional Meeting of the Mont Pelrin Society, Nairobi, Kenya, 26-28 February 2007.

¹³ Evidence on Rule of Law Initiatives Applied Knowledge Service, Applied Knowledge Services, Governance, Social Development and Humanitarian-Conflict by Evie Browne, 02/10/2013, accessed from www, gsdrc.org on 23/12/2013.

living standards, accumulate wealth to be competent in a free market economy and to be users of their own effort without exploitation by other powerful bodies. The duty of government organs to respect and protect fundamental economic rights is best followed up by the judicial machinery. The recognition given for those rights, though essential, is not sufficient indicator of an achievement of ultimate rule of law. The rights to work, to property and freedom of contracts may be intruded by the ruling or other entity at which moment the judiciary is expected to deter deviants from the legal prescription. For this purpose, any individual with a claim of denial or violation of his right should be given the chance for his case to be heard and get justice. This right of access to justice shall sustain as far as the claim is justiciable. Here governments shall refrain themselves from minimizing the power of courts by policy restriction, flourishing quasi-judicial tribunals and on the context of non-justiciability. The courts shall be given the chance to safeguard the people from illicit intervention on their economic engagements. Supplementary, the people shall not be denied the access to the potential watch dog and human rights vanguard. Accessibility of courts may be measured by variety of parameters including, but not limited to, strength of institutional structure, geographical distribution, courts' infrastructural capability and the case flow. If the judicial system is accessible based on these measurements, we may confidently testify the rights of the people as enshrined under human rights standards are the ruling or at least the rule of law is under the umbrella of the judiciary on which the people may rely. As such the people may freely and creatively engage on economic activities which add values to the development of the country.

4.3 Independency of the Judiciary: As a Fruit of Separation of Power

Relatedly, Judicial independence embraces a stipulation of procedures of the judiciary in a constitution besides giving only legal independence, minimal discretionary power of other organs of the government in order not ousting the judges' power and controls abuse of power by presidents.¹⁴ Thus, individual citizens can claim their human and democratic rights before a well-organized and functioning judiciary and comes out misdeeds which stimulating poverty. The judiciary may effectively accomplish the duty to look after the protection of human rights and meet the trust granted by the people if it is carrying out its functions without interference from other organs of the government especially from the executive which, in most cases, is potential intruder thereby party to court litigation. Without prejudice to the principle of check and balance the court as institution and judges individually should be left independent to ensure the ruling is the law which in turn has the power to make the path to poverty reduction goal legitimate, sustainable and faster.

4.4 Equal Right to Education

Save for other causes, we can full heartedly testify the role of illiteracy in triggering poverty and making it chronic. Providing equal right to education has dual benefits: First it enables citizens to be literate enough and equip them to fight poverty. Second, it enables individuals to be on equal footing, to have equal opportunities, to improve their

¹⁴ Ibid.

life; thereby they will have undifferentiated responses to the fight against poverty and in fostering economic growth.

4.5 Meritorious Legislations

All efforts, methodologies, conceptions in the fight against poverty and fostering of economic growth have to be outlined as distinct laws in conformity with Rule of Law to strengthen our efforts to tackle poverty. As such the role of International Monetary Fund (here after IMF) and World Bank (here after WB) has a lion share in inducing nations to adopt Rule of Law-driven poverty reduction policies to foster the world's economic growth. One point I fear here is, that there happen extreme inducements and policy requirements since these things may be a problem to design Rule of Law-driven policies to meet local traditions and contexts¹⁵ for ease confrontations of poverty in a certain region/country. Anyhow, what IMF and WB introduction of HIPC (Heavily Indebted Poor Countries) Debt Initiative in 1996 and with Comprehensive Development Framework in January 1999, and reforms of HIPC in tandem with Poverty Reduction Strategy Papers (PRSPs)¹⁶ unduly initiates countries to formulate efficient and feasible Rule of Law-driven poverty reduction strategy papers. In addition such activity of IMF and WB protects the very correct idea of Rule of Law not to be poisoned by domestic political agenda i.e. the common problem in every country. And I am in opinion that it is better to encourage such action of IMF and WB in the future in addition with their follow up mechanism.

Another significant task that should be given due recognition is the need to incorporate Rule of Law in development agenda. Rule of Law was not made part of Millennium Development Goals (here after MDGs) in the United Nations.¹⁷ It is time to include rule of law as one of the post-2015 development agenda. I suggest that its inclusion paves a chance to a high degree of exposure throughout the world and it will have its own means of injection deep into every nations because due emphasis will be given as a distinct development agenda. Therefore, its impact on poverty reduction and fostering of economic growth will be overwhelming.

The last point I would like to reflect is on the necessity to establish the *Judicial Review* system in nations which have not yet. As Professor Jeffrey Jowell, Director of the Bingham Rule of Law Centre, Judicial Review gives a chance to citizens to scrutinize and challenge governmental decisions that hamper their interest citing South Africa as an example.¹⁸

¹⁵ Supra note 7.

¹⁶ What the World Bank Mean Poverty Reduction, by Paul Cammack, p.1 accessed from www.chronicpoverty.org on 18/12/2013.

¹⁷ Supra note 2.

¹⁸ Ibid.

Lack of judicial review causes the fall of the lives of many citizens in the world at the mercy hand of the ruling. It is recommended that promotion of the essence of this notion, boost legal empowerment of citizens than ever before in challenging and combating domestic political traumas.

5. Conclusions

I will wrap up my discussion by exerting a due focus on utilization of Rule of Law in poverty reduction and fostering of economic growth. It is wise to meticulously identify problems which harness us from improving our life like corruption, lack of access to justice, etc. and we have to confront our old-aged chronic poverty through wise use of application of overarching principles, frameworks and guidelines of Rule of Law such as advising human rights and gender justice, ensuring a coherent and comprehensive strategic approach, engaging in effective coordination and partnerships in fighting corruption, promoting electoral system etc. In addition to these the inclusion of Rule of Law as one salient part of post-2015 developmental agenda replacing MDGs is vital. Besides, intervention of IMF and WB should be strengthened through rule of law inspired policy recommendation. Lastly, inclusion of judicial review would be rewarding which compels governmental organs to make accountable decisions.

Thanks!

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