

Role of Nigeria's Judicial System in Building Sustainable Socio-Economy

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Abstract

The role of the judiciary is very critical in any thriving democratic system. It is the role of the judiciary to maintain law and order as well as maintaining balance between the other two arms of government, namely the executive and the legislative. In Nigeria, the role of the judicial system seems to be hanging in the air. The system is said to be independent in theory but vulnerable in practice, which means it can be easily infiltrated by the other arms. This paper delves deeper in understanding the role of the judicial system in Nigerian democracy, and how that role is contributing to the socio-economic development of the nation. It adopted the Structural Functionalism as its theoretical underpinning. Structural functionalism "states that social/political systems comprise both structures and functions that are required for the existence of that system." The idea of the theory is essential as the judicial system could cease to exist without functional structures in place. The method of data collection relied solely on secondary source. The findings show that the judicial system is very fundamental to any thriving economy. As thus, it is necessary for Nigeria to respect the place and independence of the judicial system. In recommendation, the study urges the other arms of government to honour the judiciary, as this is one of the ways that socio-economic growth could be ascertained.

Keywords: Judiciary, Nigeria, Socio-economy, Government, Political, Court

Introduction

A number of institutions enable the modern nation-state to operate. "The set of institutions established by the concept of constitutionalism includes the legislative, the judiciary, the executive branch, including the bureaucracy and the police, the formal frameworks of union-state interactions, as well as the electoral system." Their arrangements, dependencies, and interdependencies are specifically influenced by the Constitution, a meta-politico-legal instrument. Apparently, a Rule of Law, in the fundamental economic sense of safeguarding property and upholding contracts, requires a judiciary to adjudicate disagreements between private parties. Some technical regulations can be enforced administratively. And where the judiciary can adjudicate a dispute brought up by a private party against the state based on constitutional clauses or parliamentary law, protection against the state itself is made easier. "The judiciary is a vital

factor in the Rule of Law and more broadly in economic development” (Kenneth, 2006). Feld and Voigt (2004) succinctly captured it when they opined that “the degree of judicial independence is correlated with economic growth.”

Stronger judicial systems are linked to both larger and smaller businesses in the economy growing more quickly (Islam, 2003). “Where the legal institutions such as the judiciary are not effective, an improvement in substantive law may make very little difference” (Kenneth, 2006). In the Nigerian system of government, the judiciary arm has consistently remained independent and powerful, protecting the interests of the people by not allowing the other institutions to go beyond what is allowed by the Constitution. Despite recent allegations of corruption against the judiciary, Nigerian citizens continue to have faith in it as their best chance to report rights violations. “It thus not out place to concede that this adjudicatory stratum of government remains indispensable and deliberately kept independent of internal and external interference even from the legislative body, which has the constitutional power to create amend or abolish laws and the executive who implement the laws as part of democratic arrangement” (Imamand Egbewole, 2019).

The role of the judiciary is core to the thriving of the Nigerian economy. “The significance of the judicial role in the modern Nigeria democracy towards ensuring peace, social and economic development as well as political stability perhaps more than ever cannot be overemphasised” (Wahab, 2006). As such, the expansion of a strong justice system invariably reflects the vitality of the world's current economic and social development.

Conceptual clarification

David (2009) described the judiciary as “the branch of government that deals with interpretation of a nation’s laws, resolution of legal conflicts, and judgments for violations of the law and is composed of judges and courts.” Abdullahi (2014, 56) refers to the judiciary as “the collective body of judges and court systems of a state; the branch of government responsible for the administration of justice based on the provisions of the law.” Ghai (2015) expounded that “in a democratic system, the judiciary serves as the organ of government saddled with the obligation to apply the law to specific cases and to settle disputes between persons.” The term "judiciary" also refers to the

system's courts, arbitrators, judges, and other administrative staff. According to the requirements of the constitution, courts adjudicate cases, interpret the law, and punish offenders (Baker, 2016).

The judiciary must deliver justice to the populace whenever they request it. In response, the courts impose just punishments on individuals found guilty of disobeying the law or violating the rights of the populace. Affected parties can seek restitution and reparations in the courts when they have suffered any loss, acting as the last recourse of the average citizen. "The judiciary regulates the quality and extent of punishment to offenders/law breakers" (Ladan, 2017). Cornell (2014) offered that "the courts often award equitable remedies when a legal remedy is insufficient." When laws conflict with one another, equity legislation is also used. In these situations, judges must rely on their sense of justice, fairness, and impartiality in order to provide a decision.

In addition, the judiciary is charged with the primary duty of upholding citizens' rights. Ghai (2015) asserted that "all citizens, regardless of their economic or social status have the liberty to seek the protection of the judiciary, if and when their rights are violated or threatened to be violated by the government, private establishments or fellow citizens." As the protector of the law, the courts are given formal constitutional authority to carry out rule-making tasks through the interpretation of laws and the assessment of the legality or constitutionality of actions or decisions made by other state institutions. Ojo (2007) pointed out that "laws which are found ultra vires (unconstitutional) are rejected by the judiciary and are therefore invalid for future use."

The development of the economy is also at the central of the responsibilities of the judicial system. According to Ayeni-Akeke (2008), "modern economic relations are highly dependent on law and the availability of structures to implement them." International investors would be reluctant to sign commercial agreements in the absence of a reputable and trusted legal system. Particularly multinational corporations grow on the assumption that courts can enforce agreements between citizens of different governments who may not have previously interacted.

In structuralizing the entirety of the judicial system, Becker (1967) opined that "judicial structure includes the judicial decision-making process." The courts frequently have the chance to offer advice to the government and legislature on any legal issue that is significant to the public. Ghai (2015) added that "judges are frequently called upon to head Commissions of Enquiry which investigate significant incidents such as, alleged errors or omissions on the part of government or

the public service or complicated issues in general.”According to Ayeni-Akeke (2008), “the functions of the courts cannot be exhausted as the judiciary is a dynamic institution that constantly adapts and responds to the needs of an ever-changing socio-political order in order to remain relevant.”

Furthermore, according to Dakolias (1999) “although efficiency is only one aspect of the quality of a judiciary, it nonetheless is measurable, unlike some of the other essential qualities.” Udu (2018: 9) added that “the progress of any nation is measured largely by the availability of institutional and legal frameworks for protection of the human rights inbuilt to its working system and the level of enforcement and practical enjoyment of such rights by the people.” In the words of Rahmani and Koohshahi (2013:10) “feeble judicial and legal systems characterised by corruption and rebellion, poor enforcement of the law, destabilise respect for the rule of law, provoke environmental degradation, and challenge development towards sustainable development.”

Methodology

This study's approach mainly relied on information acquired from secondary sources, such as journals, government websites, and written works. Each and every bit of data acquired for this study is relevant to it. To go through the vast amount of material gathered and assess the study's originality, content analysis was done. This improved the study's dependability and credibility.

Theoretical framework

This study's theoretical foundation is based on Structural Functionalism. The numerous structures of society, which is essentially the government, and the varied roles they play in establishing and achieving the various purposes and objectives of the state are explained by this theory. The theory is a sociological theory which focuses on the connections between the various civic institutions that make up society in order to explain how a society functions. This theory has its roots in Aristotle's postulation on the motivations behind decisions in light of the greatest advantages. “French political philosopher, Baron de Montesquieu's doctrine of “separation of powers” is

grounded on the concept that tasks are best carried out when isolated from each other as a means of guaranteeing durability and security” (Fisher, 2010: 75).

The theory is also rooted in biological sciences. It is frequently referred to as an early version of systems theory that emerged from the writings of French and British sociological philosophers August Comte, Emile Durkheim, and Herbert Spencer in the 1800s. They explored and established the use of the biological metaphor in comprehending society (Spencer, 1989; Barton, 2004 and Urry, 2000). In the 1950s and 1960s, Talcott Parsons and a group of academics played a significant role in the development of structural functionalism in the field of sociology; the results of their research established structural functionalism as the dominant sociological archetype of the time. According to Parsons' paradigm, collective values and norms within structures serve as the foundation for systemic existence, and deviation from these values and norms might endanger the survival of such a system (Smith and Hamon, 2012). According to Fisher (2010:76) “Functionalists liken functions to the physiology and structures to anatomy of organisms.”

Dale, Vella and Potts (2013) posit that “Structural Functionalists argue that society involves both structures and functions which are interrelated and symbiotic and ultimately fixated on preserving/mediating societal stability or necessary transformation.” The import of this postulation therefore infers that a stable society in regards to its socio-economic value operates under a defined structure. Kalu (2011) posits that “the operational nature of structures is evident in the expressed contribution towards the achievement of a collective goal of the entire system.”

In corroboration, Chilcott (1998) opined that “Structural functionalism states that social/ political systems comprise both structures and functions that are required for the existence of that system.” Every political system depends on the smooth interaction of the various governmental organs, the judiciary included, and agencies carrying out their functions effectively and efficiently; in the absence of this, the system will invariably fail. Additionally, exactly like the human body, the deterioration of one part will ultimately impact all the other organs.

This study seeks to unveil the role of the judicial system, much like that of the executive and legislative arm, of government, and its role the development of the socio-economy of Nigeria as a nation. The idea of Structural Functionalism is essential as the judicial system could cease to exist without functional structures in place. Just like the other arms of government, the judicial system

is an independent arm, though expected to hugely influence the development and progress of the economy.

Socio-economic development in Nigeria

Without a strong developmental agenda, effective agencies to a driving force, and an environment that encourages participation from everyone, Nigeria's social and economic growth cannot be advanced to the levels achievable in developed and developing countries. The term "socio-economic development" often refers to long-term or coordinated efforts by communities and policymakers to raise a region's standard of life and economic vitality. These include programs to improve human capital, vital infrastructure, regional competitiveness, health, safety, and literacy.

To understand the essence of socio-economic development, it is important to understand idea of development and economic growth. Ettah (2012:35) connotes that “some academics, politicians, and experts appear to conflate development with economic growth, as measured by Gross domestic product (GDP) or per capita income.” Chêne (2014) however observed “systemic reforms as a major component of growth, arguing that changes in inequality, poverty, unemployment, and access to essential social services must all be part of that progress among others.” In other words, rapid changes in the status quo of unemployment and inequality is a basic requirement for economic growth. Abuiyada (2018: 115) further expanded on development as “the conditions for realizing the human personality.” The understanding of the fundamental human rights is the import of Abuiyada’s assertion, with the notion of furthering the progress of developing by respecting the rights of every human.

On the other hand, Ettah (2012:36) described development as “the sustained elevation of a community and social structure towards a higher or more civilized existence.” The progression of development in a state often elevates the social status of such state. However, sustainability is essential if the elevation must remain progressive. For this to happen, and to orchestrate the expected results, needed resources should be available and ready for adequate deployment. According to Pearson (1992) development is the “increase in the use of available resources, whether quantitatively, qualitatively, or both.”

While development is expected to occur on every level, the political avenues, one which the judiciary system is a critical part, is expected to play the most part. Experts have agreed that the

political space plays a critical role in the socio-economic development of any state. According to Almond and Powell (1966), “growth is conceivable when the political system can articulate and aggregate public interests, allocate resources, and maintain law and order only through well-functioning structures.” They affirmed that by putting democratic structures and practices into place that make it easier to achieve worthwhile economic and social development objectives, democratic societies are created.

It can generally be agreed that the most popular definition of economic growth is an increase in society's overall standard of living. “Economic growth is commonly described as the achievement of Anglo-European modernization ideals, which include an increase in production of capital and consumer products, as well as some degree of improved economic and social equality, institutional changes, and the embrace of capitalist economic values are all required” (Falodun, Omogiagor, & Ezeaku, 1997). In the quest for economic development, the cultures involved could explore some of the following:

1. Liberate individuals from dependence on others and the nation-state while simultaneously releasing them from forces of ignorance and untold misery will increase people's economic and social possibilities.
2. Increase the level of living through the creation of more jobs, high-quality education, and a stronger emphasis on cultural and moral principles, all of which will boost the self-esteem of individuals and the nation as a whole as well as their material well-being.
3. “Enhance the availability and spread of fundamental life-sustaining goods like shelter, health, protection, clothes, and food” (Todaro & Smith, 2003:23).

It can be surmised therefore that sustainable development is the process of wisely using and conserving natural resources for the overall betterment of current and future generations' living conditions over the long term. Ranjani (2012) explained economic sustainability from a different perspective, noting that ‘it is the maintenance and sustenance of a high real growth rate of the economy to achieve the development or economic objectives.’ The democratic system of Nigerian politics seems to have relegated the independence of the judiciary system. The other arms of the government, especially the executive, are actively at the front role of making critical decisions in regards to the socio-economic sustenance of the nation. In instances where the progress of the

socio-economy is affected, especially through denying the citizens of basic rights, the intervention of the court is expected to re-balance the notion, and set the economic scale back in motion. This has not been as effective, except in situations where the politically elite are directly affected. Development doesn't come by chance, or dishing out sentiment towards a particular group of people. As the World bank (1997:4) surmised it, "the goal of development is to improve the quality of life of the citizenry, especially in developing countries. Better schooling, a higher level of health and wellbeing, less hunger, greater social independence, and a richer cultural life are all factors that contribute to a higher quality of life."

The judicial system: a catalyst for socio-economic growth

The relationship between law and development is explained by economic theory, which contends that the judiciary may have an impact on economic outcome (Court et al., 2003). A functioning judiciary is essential to developing a nation. A nation's sovereignty is strengthened, constitutionalism is encouraged, and the rule of law is upheld while maintaining law and order. "In this way the judiciary creates a better environment for economic growth. A competent judiciary therefore expands the possibilities for a nation's future" (Messick, 1999). Some significant behavioural changes appear to have taken place among Nigerian politicians since the return to democratic governance on May 29, 1999. While some still engage in political thuggery and violence, many others today choose to use the legal system to settle their disputes. More significantly, the politicians are also learning to accept judicial rulings as definitive, whether they are favourable to them or not. These drastic changes are largely the result of the judiciary's own metamorphosis, which has been urged to play a more assertive role as a brave and impartial arbitrator of the nation's democratic politics in general and its election disputes in particular since 1999. According to Enweremadu (2011), "The clearest evidence of this fact is the increasing number of judicial decisions that have upturned the results of several rigged elections, mainly in favour of opposition parties or individuals opposed to the federal government"

Other judicial decisions that reinstated state governors who had been unfairly removed from office due to disagreements with the federal government or political godfathers have further highlighted the metamorphosis of the Nigerian judiciary. As Davies (1990) opined, "the independence of the judiciary is desirable in any organised society that cherishes the idea of the rule of law and human freedom and, in order to ensure this, the appointment, promotion and dismissal of judges are

usually placed in the hands of a neutral body such as a national judicial commission whose members are paid through a special fund.” Another consideration is whether there are sufficient judges and courts to meet the needs and demands of the general public, as well as the availability of proper facilities and employees (Davies, 1990).

The judiciary's ability to settle disputes, particularly those involving elections, and thereby contribute to the maintenance of democratic and socio-economic stability was being compromised more and more. Numerous studies have demonstrated that these issues were later made worse by Nigeria's protracted experience with military dictatorship (Nwabueze 1992). Beyond its incapacity to resolve disputes, the politicization and neglect of the court had a severe impact on this significant institution in a number of other ways. “One of these was that the judiciary became an anti-democratic institution. That is to say that, contrary to its democracy enhancing role, it became a potent tool for undermining democracy and fostering authoritarian rule” (Davies, 1990).

The validity of these arguments needed to be taken with utmost consideration. As a catalyst, that is responsible for either the speeding up or slowing down of reactions, the judicial system is systematically responsible for either the swift progression or retrogression of any democratic nation. This can be likened to a two-way route where only one way can be taken per time. And despite the seeming independence that Nigerian judicial system seems to be enjoying, it clearly has taken a path, being influenced by one or both arms of the government. “During the Second Republic, for instance, petitions emanating from the two general elections held during the period flooded the courts and elections tribunal” (Olurode 1990). “But rather than do justice to these petitions the courts appeared bent on ensuring the status quo and not disturbing the balance of political power among the various contenders” (Unobe, 1990). Several lawmakers resorted to asking the military to step in after becoming dissatisfied with the courts. On the evening of December 31, 1983, the military finally responded to this appeal and overthrew Nigeria's second civilian government.

The judiciary's history as an institution that fosters democracy has not been easy. Instead, it was frequently caught in paradoxical paths between independence in theory and vulnerability in practice. “These developments,” as Omotola (2007) argues, “may not be unconnected with the prebendal character of the Nigerian state, prolonged military rule, and the attendant weak institutionalisation of democratic political institutions and culture.”

The existence of powerful and independent monitoring institutions, among them the judiciary, is one of the fundamental prerequisites for the survival and development of a liberal democratic state.(Mbanefo, 1975; Walraven & Thiriot, 2002). From Leonard's (2009:8) perspective, "competent and independent judiciaries are, in many ways, central to democracy."A strong court will not only prevent government abuse of power(Davies, 1990; Ige &Ayodeji, 2006), "it will also be capable of managing the intra-elite disputes and/or conflicts which are bound to result from the competition for power and economic resources involved in party politics in a multi-ethnic society" (Suberu 2001).

Nigeria's democratic and socio-economic shortcomings are largely attributable to the country's inability to establish an unbiased and trustworthy court that enjoys the respect and confidence of the majority of its contentious political class and its sharply split populace (Olurode 1990; Unobe 1990). This inevitably have direct impact on the socio-economy of the populace, not wanting to entrust their trusts on a flawed system. As the third arm of the democratic government, the judiciary is critical in the socio-economic development of Nigeria, both directly and indirectly.

Conclusion

Since the transition of Nigerian government to democracy in 1999, the judicial system has been relegated to the backseat, often being overwhelmed by the actions and inactions of the other arms of government. This has consistently been done, despite the huge role that the judicial system plays in the socio-economic development of the country. These roles have often been overlooked, which has inadvertently affected the economy of Nigeria. Other than maintaining rule and order, which is essential in every thriving country, the judicial system is also responsible for a vast number of things such as Interpretation and Application of Laws, Protection of the Fundamental Rights of Citizens, Advisory Functions and Judicial Inquiries, and Economic Development.

The inactive or ineffectiveness of the judicial system often slows down the progression of the order. Fundamental human rights are constantly violated, the law often get completely misinterpreted, and economic development is retrogressed. The effectiveness of the judicial system however, plays a huge role in boosting the socio-economy of any system. In Nigeria, the judicial system needs to remain independent both in theory and in practice. This will provide the economy with a swift boost, as well as provide the adequate environment for the citizens.

Recommendation

The following are some recommendations from the study:

1. The judicial arm of the government should be left independent without infiltration by either the executive or the legislative. The judicial system is responsible for maintain law and order even within the other arms of government.
2. The Bench should ensure that the judges being recruited into the judicial system are intellectually and morally sound. This is in a bid to avoid compromise from any judge representing the court.
3. The other arms of government should ascribe the appropriate respect to the judiciary by not invading its practice.

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