

GLOBAL PERSPECTIVES ON LEGAL ISSUES, SECURITY AND INTERNATIONAL DEVELOPMENT



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1. Introduction

This discourse is no doubt relevant to the very existence of any nation in the committee of nations and even to global peace. The issue of law and legal system in any nation is the substratum upon which the nation is built. It is an inconceivable issue that a nation can exist really without legal framework establishing the *modus operandi* of her government, the organs of the government and relationship between the government and the citizens of that nation as well as an inter-relationship amongst the citizens. It is the legal system of the nation that serves as the engine of development and as both the machinery and the lubricants to the structures of the nation. That is to say that, without the existence of law and strict obedience to its dictates by both the Government and the governed, no nation can really be said to be in existence and functioning.

All governments should aim at making law relevant and sensitive to the needs of the society at large. Legal systems should be imbued with facilities which should be utilized for progress and social well being of the ignorant, under-privileged, illiterate and the exploited in the society. Legal systems should aim at (1) Individual justice which is at the individual level. (2) Social justice which is at the social level and (3) distributive justice which should pervade and cover all aspects of human endeavour. According to **Justice Oputa JSC**; justice is the minimum debt which government owes to the citizens. According to him, anyone denied justice is declared worthless. We have to remind ourselves that African justice is substantial justice not procedural justice and laws should reflect the spirit of the times. In fact, the purpose of law is justice.

It is because of the above facts that nations which are conscious of the fact that the body of laws of a nation really governs and not the rulers to insist on the rule of law as opposed to arbitrariness. Such countries strive to build strong institutions of legal system administration in their nations in the sphere of law making and adjudication. The legal systems in such developed nations are very dynamic and robust to meet the demands of space and time. Their legal system evolve in such a manner as to take care of the developing trends in information technology, climatic change, terrorism, Intellectual property rights, globalization etc.

2. Security, Legal System and Global Peace

The citizens rights should be respected by those in authority, access to justice administration shall not only be affordable but speedily attended to by the adjudicating authorities. This is because of the idea that governmental power belongs to the people, and that only persons elected by them are to hold and exercise it on their behalf. It is for this that most constitutions in the preamble start with “We...” not mentioning the name(s) of the powerful. The necessary implication is that, it is from where the legitimacy of the Constitution and its ability to evoke a feeling of attachment and loyalty among the people is derived.

Just as we emphasized on the importance of strong legal system in any nation, security is equally no less important, in fact, both issues complement each other. Security is very essential to the survival of any nation. The presence of legal system alone is not sufficient guarantee for prevalence of law and order in any nation, unless the government has strong

political will to put in place a well structured security establishment to enforce law and order in that country. The reason for strife and break down of law and order in some countries is not the absence of laws and legal system to address infraction of laws in those countries but because of the inability of government in those countries to put in place efficient and effective security machinery to tackle acts of insurrection and security challenges in such a nation.

Any nation without security machinery capable of gathering intelligence within and outside the country, with a view to nipping insecurity in the bud before it escalates is not only highly vulnerable to break down of law and order but also susceptible to insurrection and terrorism. It must be clearly noted here, that the primary obligation of government in any nation is to protect lives and properties and check mate any act even if it is outside the country capable of endangering lives and properties of her citizens. This necessitated the intervention of President Buhari and other presidents of West African sub-region in the incident in Gambia which led to the removal of the former President of Gambia, Yahaya Jameh. Good governance and leadership motivate and grow patriotism in citizens. Patriotism engenders good legal system, security and international and municipal development. In the United States of America on 9/11 five (5) fire fighters were hoisting American flag which some countries deem “cloth” or “rag”. They do this because they felt that fire had gutted the cherished American Flag. These men did not mind their lives. In some countries, the well being of citizens do not matter to government and leaders who turn themselves to rulers. Gambian incident very recently is a good example.

As pointed out, the existence of strong legal system and efficient security is key to the survival of any nation. Their presence in any nation is key to the realization of expectations of her citizenry and on the other hand, their absence is not only a threat to the very existence of the nation and its citizens but it also portends grave danger to the neighbouring countries and global peace. Instability in one country will ultimately constitute a threat to regional and global peace. There is absolutely no way any country in crisis will enjoy development and prosperity without rule of law and security of lives and properties. Such country lacks capacity to work in synergy with other countries to attain globally set targets and objectives.

It is for this that **Martin Golding** said that the rule of law is “an ideal of governance” that embodies “implicit” and “non-legal” rules of lawmaking, “rules internal to the very idea of governing by rules”. The idea of the rule of law requires both the government and the governed to “be ruled by the law and obey it”, and it thus requires that “the law... be capable of guiding the behavior of its subjects”. A society can realize the purpose of a law only if the law is able to guide behavior, “and the more it conforms to the principles of the rule of law the better it can do so”. That is why fidelity to the rule of law is “an inherent value of laws”, the “virtue of law in itself, law as law regardless of the purposes it serves”, and why maintenance of the rule of law is appropriately viewed “as among the few virtues of law which are the special responsibility of the courts and the legal profession”.

Learned Hand was right about many things. He certainly was correct that no court can save an increasingly polarized political community that refuses to save itself. He was also

right that no court need try to save a community in which “the spirit of moderation” abounds. But what about the vast middle between those extremes? What about a culture in which citizens are divided over profound questions of individual and collective identity and the spirit of moderation appears at times to imperil, yet it would be unduly pessimistic to conclude that the spirit of moderation is gone? In such circumstances, is it sufficient for a judge to observe that “in a society which evades its responsibility by thrusting upon the courts the nurture of that spirit, that spirit in the end will perish”? Or might such a judge be courting an evasion of his or her own responsibility, the responsibility to adopt “the posture of statesmanship”? As Nigeria's talk of corruption in the Judiciary, they should look at the mirror and tell the person they see/find in the mirror that he/she is the one who is corrupt. This is because the fish that is inside the water shall not say that water did not touch it.

3. Development, Rule of Law and Security

Development is multidimensional and in countries such as Nigeria and other developing nations it touches upon social and economic transformation based on the policies by the leadership of those nations. Development, political, economic and social growth cannot occur unless there is security that guarantees peace and laws that ensure justice. For a true and sustainable development, there must be the entrenchment of rule of law and staunch security systems that protect lives, properties, the citizenry, economic and social activities.

An indication of underdevelopment in a good number of third World countries who are dependent on international aids etc is lawlessness. Naturally, insecurity is an immediate cousin of lawlessness. A case in point is the security situation in Nigeria today. The legal system is 'weak' to effectively punish perpetrators of carnage in various regions of the country such that, as we speak, very few, if any, have been persecuted successfully in the court of law. As a corollary, economic activities remain at barest minimum, social organizations collapse while the pursuit of happiness is guaranteed to none.

The argument here is that the challenges of development at its various dimensions – whether personal, national or international or in the form of economic, social or political growth, can best be tackled when the issues of law and security are properly articulated, encoded, entrenched and embraced by all.

We make bold to say that one reason for the diverted development of Third World countries is their malformed justice and security systems. Here is a situation where justice and security are meant for a privileged few while the greater majority of the citizens are denied security.

The above premises aptly illustrate the theme of this conference, because the issue of the legal system or laws of one country and her security challenges is no longer an exclusive concern of the Government and people of that country alone. For instance, when Nigeria was faced with the problem of Boko Haram at its intense level, many countries, international organizations were concerned and involved. Also, the Gambian incident concerned the ECOWAS and AU countries as it will affect them. This is as a result of the multiple effects of conflicts in any country to other countries sharing boundaries, bilateral and multilateral relationships with the affected country.

It is because of the need to ensure strong legal system in most countries especially the developing ones in order to guarantee peoples' rights and strong institutions for justice administration that regional, continental and global organizations like ECOWAS, African Union and United Nations enjoin member nations to subscribe to and adhere strictly to their Charter which guarantees peoples' rights in order to ensure peaceful world order. This is because an endangered person anywhere in the world should be a source of concern to all. A case in point is the recent Arab migration to Europe over ISIS terror in Syria and its environs. That is why United States is referred to as "Policeman of the World" because of its interests in the world as every country has links with United States of America.

4. Rule of Law and International Development

Apart from the support from the international organizations, developed economies (countries) of the world also support deepening of democracy and strengthening of legal systems in the developing countries. The essence of these financial aids and advocacy support to Africa and other 3rd World countries is to strengthen governance and its institutions in those countries in order to whittle down strong influence of their rulers, who elevate their whims and caprices over and above national goals. These tendencies are the bane of development in the developing countries. Their leaders are always afraid that their selfish inordinate ambitions will not blossom in the face of strong institutions of the state. The citizens who are against such dictatorial tendencies in those countries are often labeled dissidents; they are incessantly arrested for wanton charges and are often tried in a manner far below internationally accepted best practices. In fact, they are usually not given fair hearing as expected under the laws of those countries.

Since the Government institutions to be relied upon for robust governance in the state are very weak, people in the developing countries do often resort to self-help, such a situation makes conflict to thrive and breakdown of law and order becomes the norm. Take for instance, the conflict in South Sudan, Eastern Congo D.R., Somalia in which Al-Shabab Militia activities has remained a threat to peace in Kenya, Darfur region of Sudan, Zimbabwe, Zambia, elections in Kenya etc. These conflict situations normally lead to armed conflicts in which people in those countries are killed, maimed, displaced, raped and turned into refugees either in their countries or in the neighbouring countries; properties are destroyed or development stagnated. The security agencies are structured in such a way to keep those in authority forever safe and citizens are abandoned to their fate. Appointment into strategic positions in these security Agencies are not made on merit, nepotism and corruption set in to erode the confidence of the rank and file of the security outfit. Some take to ethnic and religious lines while carrying out their duties at the detriment of the state because there are no checks and balances. In this situation, such nations and their citizens become highly vulnerable in the face of serious internal insurrection as the officers and men of the forces are ill-trained and ill-equipped to face the challenges of keeping the nation secured.

In most cases corruption fuelled by greed make the leaders not to equip their forces adequately and as well, they do not train the members of security agencies well for internal security. Some of the time arms and ammunitions meant for security agencies are found

with the wrong persons for election purposes, knowing that when arms and ammunition get into the wrong hands they do not normally return to the right/proper authority. These wrong hands cause insecurity which in most cases impede/affect development rather negatively.

How can a Country facing these Challenges contribute meaningfully to internal or an International development?

5. Summing Up: Good Governance, Global Peace and Development – Developing Nations' Role

Since the various countries of the world are woven together by regional and multilateral ties, internal development can hardly be achieved by a lot of countries in Africa, Asia and South America who are still grappling with issues of poor governance structure, which include weak legal system and security structure. These facts militate against good governance and development in those countries. As the world is becoming a global village, any echo in one country has ripple effects and resonates not only in the neighbouring countries but also in all the countries having ties with that country in question. That is why the issue of terrorism and outbreak of infectious diseases have continued to be a threat to global peace and development. Therefore, there is real need for the developed countries to see to the actualization of good governance everywhere in the world. No part of the world is secured as long as there is impoverishment in any part of the world because of its ripple effects on the security of the country and its environs.

It is only when most of the countries of the world have strong institutions of governance put in place in their domain that funding from international bodies like United Nations, Commonwealth, European Union, African Union, World Bank etc., will yield the desired results. No amount of grants and advocacy campaign can lead to fruitful dividend in an atmosphere of civil unrest and weak government institutions in any country.

This fact leads us to the simple reason why minimal result is recorded from the enormous assistance from International Donor Agencies in third world countries in terms of socio-economic development.

Therefore, if the necessary indices of strong legal system and security are not guaranteed to create enabling environment for lives and property and for sustainable economic development, no amount of funding and/or advocacy campaign for investment will be sustainable. This is because there is no prerequisite condition to guarantee lives and properties and above all improve living condition of the citizenry in the country put in place, talk less of their contribution to international development.

Finally, strong legal system and well structured security machinery in all the countries of the world is a condition precedent for sustainable international development and global peace.