LAW: A STRATEGIC TOOL FOR SOCIAL ENGINEERING

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“...the law ought to be a corrective instrument of social change and not a clog.”

Robert Omote

The crux of this piece is to examine and accentuate on the fact that the law is a strategic and procedural tool for the engineering and orchestration of the society to meet its various ends. First, it is important to appreciate the conceptual meaning of law from the layman’s perception and orientation. Thus, law is simply defined as a rule of conduct which guides human conduct and actions (in the layman’s and general perception). More technically, law is seen as the aggregate of legislations, judicial precedents and accepted legal principles; the body of authoritative grounds for judicial and administrative actions. (Black’s Law Dictionary 7th Edition, Page 889).

With the definition of law put in its proper perspective, it is necessary to point out the essence and importance of law in succinct and concise terms. To meet this need, Glanville Williams in his book titled “Learning the Law” summarises and encapsulates the primal importance of law in the following words:

“Law is the cement of the society and an essential medium of change. A knowledge of law increases facility at argument, skill in language as well as an understanding of public affairs. It also improves one’s understanding and appreciation of social matters”.

The above postulation constitutes one of the numerous importance and roles played by law in the society. The central thesis or theme of this piece is to the effect that law is a strategic tool for social engineering which was the noble position and idea of a foremost legal scholar, Roscoe Pound in his essay titled “More about the nature of law”. He posited that law should be a viable instrument of social engineering and progressive societal change. Since the time he made this classical and authoritative statement about the law, many legal scholars, experts and researchers have made constant reference to the statement in a bid to build upon and consolidate the statement in view of the present modern realities of rapid wind of change blowing across the globe. With this noble idea in mind, Roscoe Pound wrote further in his essay hereinbefore stated that:

“There are two ideas that run through the definition of law; one an imperative ideal, an ideal of a rule laid down by law-making organ of a politically organised society, deriving its authority from the authority of the sovereign; and the other a rational or ethical ideal, an ideal of a rule of right and justice deriving its authority from the intrinsic reasonableness or conformity to ideals of right and merely recognised, not made by the sovereign”.

Through these ideals (the imperative and the rational or ethical) as espoused above, law plays an indispensable part in the promotion and engendering of progression and the effecting of necessary social change in the society. Suffice here to say that engineering is the act of plotting or contriving to bring about a particular result or outcome. Thus, engineering means to plan, frame or orchestrate. So, if the law is to be treated and seen as a strategic tool for social engineering, it denotes that it is the
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Let me say here that I quite wonder time and again what the essence of law is, if not to orchestrate the society to fulfill the ends of its existence. Why law if not to make society more adaptable and responsive to changes and alterations in the ideals and principles of the society. It exists in order to cover and meet up with new challenges evolving in the society by way of advancement in all facets of life. It prescribes socially acceptable conducts as well as conducts that are reprehensible with appropriate punitive measures attached thereto. Economically, it sets acceptable standards and sets rules and regulations for forming business organisations or associations as well as providing for procedures of winding up of business associations. Politically, law, with the courts being an inseparable and integral part of it, exists not only to determine the successes of political processes but also to regulate government agencies whose successes culminate and accrue into the overall political process. The above mentioned are without prejudice to other innumerable functions performed by law.

Law, as it is, comprises several processes and institutions of which a court of law forms an integral and inseparable part. Thus, a court of law is an established institution for the fair and just determination of conflicts from perceived disturbances between levels of government and private organisations, between private individuals in the society, among others. The foregoing, no doubt, culminates in the sacred, sacrosanct duty of the court. If the above duty of the court is viewed in direct correlation to what the law performs, it can be concluded that law exists to forestall occurrences of conflicts and disputes which, when not properly managed and checked, could result in the disruption of law and order, erosion of the moral system and a resort to armed weaponry to settle scores. Indubitably, if this state of affairs persists, there could be a return to the popular state of nature known as “leviathan” as envisaged by Thomas Hobbes wherein “Life is poor, nasty, brutish, short and solitary”. Thus, the end of law in this regard is through the full machinery and operation of the courts of law to obviate the possibility of emergence of leviathan and engender peaceful co-existence and stability in the society.

Now speaking from the angle of the Nigerian experience, it is apt to say here that the law should not exist in vacuum but must rise up to the occasion of being the saviour of the common man in restoring sanity and engineering societal progressive change and growth in all ramifications.

Appropriately, it is gladdening that aggrieved parties have, in recent years, abandoned their arsenal of munitions and resort to thuggery in achieving their selfish ambitions and have had recourse to the courts of law to have their fate determined. This places a great burden upon the court to do justice. This duty was similarly re-affirmed by late Justice Oputa when he asserted that “...the end of the law is justice”. Thus, justice must be done by the courts though the heavens should fall (Fiat justitia, ruat coelum). Also, justice stated here is not the technical justice that the courts seem sometimes to focus on but the substantive and substantial justice from the fair and humane application of the law.

In furtherance of the objective of law to foster societal progress, the needed warning directed to the court of law is that, in the face of the numerous pending matters before them, justice must not be slaughtered on the altar of technicalities. This is so because justice is what the individual (i.e the common man) and the society in general is out looking for. It is nothing more than justice. Justice is law in action and technicality is a clog to the wheel of justice. To add more steam to this argument, the Supreme Court declared in Oden v. FRN (2008) 13 NWLR 9 Pt.1103 1.R 6 (2008) that:

“Dispensation of justice on the pedestal of technicalities is no longer fashionable”

In addition, in Omou v. FRN (2008) 7 (Pt. 1085) SC 38 R.8 per Tobi JSC at page 57, paras D-G , His Lordship emphatically remarked that:

“Courts of law have long moved away from the domain or terrain of doing technical justice to doing substantial justice. Technical justice, according to the legal colossus, is not justice but a caricature of it. Caricature are not the best presentations or representations, substantial justice is justice personified and is secreted in the elbows of cordial and fair jurisprudence with a human face and understanding. It pays to follow it as it brings about invaluable dividends in any legal system anchored or predicated on the rule of law, the lifeblood of democracy”.

From the foregoing, it can be safely asserted here that once the courts, a custodian of the law, can be up and doing in the performance of its sacred and sacrosanct duty of dispensing justice (not technical justice), then the law would then be perceived as an active and potent force of progressive and positive change. Oftentimes, in a bid to dispense justice, unnecessary delays by way of endless interlocutory applications should not be permitted whatsoever. Pursuant to this, the conclusion was properly achoed in Mohammed Hassan Rimi v. INEC and Arch. Umar Abub (2004) 15 NWLR (Pt. 895) CA 121 F.32 where the court of Appeal declared that:

“As a matter of deliberate policy to enhance urgency, cases are expected to be devoid of procedural clogs that cause delays in the dispensation of substantive justice”.

Thus, procedural delays should not be permitted by the courts to come in the way of doing justice flowing from the aphorism that “Justice delayed is justice denied”. As matter of fact, in the Nigerian terrain, the law has been very active and vibrant in dealing with cases of corruption, money laundering and terrorism by way of promulgation of the Anti-corruption Act 2000, Money Laundering (Prohibition) Act 2004 and the Terrorism Prevention Act 2011. These statutory instruments have laid down a proper legal and regulatory framework for nipping all of these social maladies or ills into the bud. They may not have concrete results in their implementation as envisaged in the intention of these laws but the enforcement and practicality of these statutory instruments is not too late. It will not be out of place to declare here that the law is consistently providing for contemporary and novel
issues like climate change, environmental problems, investment and securities business, debt recovery, electronic commerce, to mention a few.

In conclusion, it is apt to say that law should not just be but it should be a strategic and effective tool of progressive social engineering. The scholarly views of Robert Omote in his paper titled “Law ought to be an instrument of social engineering” would suffice as the concluding remarks on this subject matter. He said:

“A twin vibrant Bench and Bar void of infractions, intrigues is the needed antidote for the rejuvenation of the Nigerian society. In the face of the daily drift to the Nigerian Leviathan, the law ought to be a corrective instrument of social change and not a clog”.

I would like to add here that the law should not just fold its hands while various ills are perpetrated, it should not act like a toothless bulldog having nothing to do. Rather, it should stamp its authority and stand its ground as the ever virile force of orchestrating social revolution and rejuvenation in a strategic and procedural manner.

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