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Law as a Means of Social Engineering: Some Perspective on Nigeria

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Abstract

This topic subscribes very strongly to the fact that law ought to be the fulcrum of social engineering, development, transformation and harmonious existence in the society. Law and justice are virtues of social institutions that produce democratic and economic changes in a country. The foundation of social change in a democratic environment is rooted in law and law has been viewed both as an independent and dependent variable (cause and effect) in society and thus need to emphasize the interdependence of the law with other social systems. The concept of law and social engineering involves jurisprudential, sociological and philosophical discussions as well as research done over centuries by a wide range of renowned commentators and authorities. This paper article further sets forth a general 'theoretical perspective to the concept of law and social engineering as an ongoing public interest debate in Nigeria. It in addition appraises the question whether law in Nigeria is a strategic imperative for social engineering or an instrument to advance political and personal interests. It finally proffers practical suggestions to ensuring that the functions of law in the society are actualized.

Key Terms: Law, Social Engineering, Constitution, Corruption, Judicial Independence.

Introduction

> *"I am content to think of law as a social institution to satisfy social wants the claims and demands and expectations involved in the existence of civilized society*[1]*"*

First it was engraved on stones, then on slates, thereafter inked on paper, through the typewriter to the computer, its essence has remained the same; but the manner of its manifestation has been a roller coaster. **Law**is and has always been a means of social engineering. In recent times, the subject of law as an instrument of social change stands out indistinct lines as legal reforms in Nigeria and all over the world has been at the centre of agenda of government, admitting the fact that law, and its adequate enforcement is imperative to the achievement of behavioural change and social justice in a country. Law is a desirable necessity and an efficient means of inducing social change. It is axiomatic that law is the *safety-pin* that keeps human society together.

Eugene Ehlich[2]a Prominent European Sociology Jurisprudent posed that law is not what is laid down by the sovereign rather; it is the society's value and conduct, which determine what the law

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[1] Roscoe Pound 187Q – 1964, in his book *Philosophy of Law* (1974)

[2] 1862 – 1922, in his book *Fundamental principles of Sociology of Law (1936)*

is. According to him, if law is at variance with popular conduct and the law is unsupported, it is doomed as an instrument of social engineering[3]. The import of this is the living law that reflects the values and dominates the societal life. In order words; the failure of the society is a direct consequence of the failure of law.

Law is to be seen as a means to an end[4]. The features of law remain the same; it is a body of rules, it is made by man, it is normative in character with an element of coercion and it is territorial in nature. ***Ehlich's***view that conduct is to be determined by the law is replete in the Nigerian context where corruption is prevalent, unscrupulous Police still openly extort motorists and assault innocent members of the society, where there is security challenges (urban violence, kidnapping and terrorism), child abuse, executive lawlessness, misuse of ,constitutional provisions and general impunity etc.

1. Conceptual Clarification

Lawis the whole system of rules that everyone in a society must obey[5].Law according to ***Max Webe***[6]is an order, the validity of which is guaranteed by the probability that deviation will be met by physical or psychic sanction by a staff specially empowered to carry out this sanction. ***Green Arnold*** defined law as more or less systematic body of generalized rules, balanced between the fiction of performance and the fact of change, governing specifically defined relationship and situations and employing force or the threat of force in defined and limited ways.

According to ***Duguit***[7], laws are the rules of conduct normal men know they must observe in order to preserve and promote the benefits derived from life in society. ***Maclver and Page***believes that law is the body of rules which are recognized, interpreted and applied to particular situations by the Courts of the State. ***Roscoe Pound***[8]defines law as an authoritative canon of value laid down by the force of politically organized society. ***Austin*** defined law as the Command given by a superior to an inferior[9].

Social engineeringis a discipline in social science that refers to efforts to influence popular attitudes and social behaviors on a large scale, whether by governments or private groups. A social engineer is one who tries to influence popular attitudes, social behaviors, and resource management. Social engineering is the application of the scientific method for social concern. Social engineers use the methods of science to analyse and understand social systems, so as to

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[3] 8. D. Fisher, 1977, Introduction to the Legal System – Theory Overview, Business application, west Publishing Co. 1977, P.S. His analysis was that one could not know the law of the society by merely reading through the formal legal sources rather, come should go to the society to appraise how that law is obeyed. Ignored, executed, modified or supplemented by the society

[4] Other proponents includes, lhering (1828 -1892) in his book *Det Zweck in rechi (Purpose of Law),* A. Hunt in his book*The sociological Movement in law (1978),* and Jeremy Benthan (1748 -1832) in his book. *An introduction to the Principles of Marals and Legislation.*

[5] Oxford Advanced Learner's Dictionary 6th Edition, page 669

[6] 1864 -1920 in his book *Intellectual Portrait (1960)*

[7] 1859-1928

[8] 1870 – 1964, in his book *Philosophy of law (1974)*

[9] Sociological view believes that "Law is the rules of right conduct" Laws are the general condition of human activity prescribed by the state for its members. Roscoe Pound stated, "Law must be stable and yet cannot be stand still. The law is often used as an instrument of social reform.

arrive at appropriate decisions as scientists, and as politicians[10.] Social control refers to those various means by which a society exercises its authority over its members and enforces conformity to its norms[11.]

For various reasons, the term has been imbued with negative connotations[12.] However, virtually all laws and government have the aim of seeking to change behavior and could be considered "social engineering" to some extent. Prohibition on murder, rape, suicide, armed robbery etc. are all policies aimed at discouraging undesirable behaviours; the definition of Marriage by law obviously excludes same sex marriage by default thereby protection the sound values of the Nigerian society. In jurisprudence, changing public attitudes is accepted as one of the functions of the laws prohibiting it[13.]

2. Historical Perspective

The value of history cannot be overplayed in matters affecting humanity. History is the key to open the door into the future. Maitland[14] testified to this when he wrote: "*if at one time it seemed likely, that the historical spirit… was fantastic and inimical to reform, that time already lies in the past…Nowadays, we may see the office of historical research as that of explaining, and therefore lightening the pressure that the past must exercise upon the present and the present upon the future. Today we study the day before yesterday, in order that yesterday may not paralyze today and today may not paralyze tomorrow".*

Law cannot be spoken of as a single homogenous entity. It is a rule or system of rules recognized by a country or community as regulating the actions of its members and enforced by the imposition of penalties[15]Beyond this, however, the history of law of different communities has developed in distinct ways, reflecting the prevalent socio-political norms and values of the society which they regulate. The history of laws of pre-literate African societies, for example, is significantly different from the history of laws a developed Western democracy[16.]

The term social engineering was in an essay by the Dutch industrialist **J.C. Van Marken** in 1894. The idea was that the modern employers needed the assistance of specialists - "social engineer" - in handling the human problems of the planet, just as they technical expertise (ordinary engineers) to deal -with the problems of dead matter (materials, machines, processes).

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[10] In his classic political science book, *The Open Society and its Enemies, volume 1*, The *Spell of Plato,* KariPopper examined the application of the critical and rational methods of science to the problems of the open society. In this respect, he made a crucial distinction between the principles of *democratic* social *engineering (what he called "*piecemeal social engineering") and Utopian social engineering. The piecemeal engineer will adopt the method of searching for, and fighting against, the greatest and most urgent evil of society.

[11] Otite O. & Ogbonwo. W. *Introduction to Sociological Studies,* Ibadan, Heinemann, 19979, at p. 374-375

[12] Some people believe that social engineering involves manipulation of people for selfish purposes

[13]http://searchsecurity,techtarget.com/definition/social-engineering.http://en.wikipedia org/wiki/social_engineering_(political_Science)

[14] In his collected papers, vol. III page 438

[15] Concise Oxford Dictionary

[16]The history of Law/Free Law Resources/Law Teacher http://www.lawteacher.net/history-of-law.php#2THqkM541

The term was brought to America in 1899, when the notion of "social engineering" was also launched as the name of the task -of the engineer in this sense[17.]

Extremely intensive social engineering campaign occurred in countries with authoritarian governments. In the 1920s, the government of the Soviet Union embarked on a campaign to fundamentally alter the behaviour and ideals of Soviet citizens, to replace the old social framework of Tsarist Russia with a new Soviet culture, to create the New Soviet man. The soviet used newspapers, books, film, mass, relocations, and even architectural design to serve as "social condenser" and change personal values ad private relationships[18.]

The *Soviet Union* succeeded in making enormous changes in the society by the use of law. In *Spain,* law was used to reform agrarian labour and employment relations. *China* also managed to moderate through law its population growth and as a result devoted more of its resources to economic development and modernization. From the foregoing, history should teach us to believe that law can be a means of social engineering in any society.

3. Theoretical Perspective

> *"The centre of gravity of legal development lies not in legislation nor juristic science nor in judicial decisions but the society itself"*[19]

In a broad theoretical framework, social engineering or change has been slow enough to make the custom of the people the principal source of law. Law could respond to social change over decades or even centuries. Law in every environment has been the major instrument of regulating the behaviour of people in the society; for example, the only reason a car owner will register his vehicle is because it is a legal requirement of law.

In its most concrete sense, social change means large numbers of people engaging in group activities and social relationships that are different from those in which they or their parents engaged in previously. Thus, social change means modifications in the way people work, rear a family, educate their children, govern them, and seek ultimate meaning in life or the way leadership in a country carry out its responsibilities.

Because law is deeply implicated in our economic, political, and social worlds, pursuit of social change invariably involves an engagement with law. Debates around the relationships between law and social change more often than not tend to crystallize around the inquiry: which of the two (law and change) should influence the other. Realistically, such a debate is more in the realm of the **academia** than any other thing, because in practice the pendulum has swung both

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[17] "Social engineering" was the title of a small journal in 1899 (from 1900 named "Social Services)", and in 1909 the title of a book by its former editor, William H. Tolman (translated in French in 1910), making the end of the usage of the terminology in the sense of Van Marke. With the Social Gospel sociological Edwin L. Edwin L. Erp's. The Social Engineer, Published during the "efficiency craze" of 1911 in the U.S., the usage of the term was launched that has sociologist Edwin L. Earp's The Social Engineer, published during the "efficiency craze" of 1911 in the U.S., the usage of the term was launched that has since then standard the one building on a metaphor of social relations as "machineries", to the dealt with in the manner of the technical engineer.

[18] Similar examples are the Chinese "Great Leap Forward" and "Cultural Revolution" Program and the khmer Rougher's plan of deut

[19] See: S Steven, *Foundation of Economic Anlaysis of Law* (USA, Havard University Press, 2004) 132-135

ways. In some instances, the changing ethos and mores in the society have laid a basis for reforms in laws.

The widely held belief here, is that a law that lags behind changed circumstances in society (be they political, economic or social) runs the risk to its legitimacy. Thus, it behoves a good and vigilant government to always have a sense of pressing societal changes, and to accordingly review legal institutions, aligning them with the new changes in society. On the other hand, it is equally not unknown of instances where law itself has taken a lead, laying a firm basis for changed morality in society. There is, therefore, a noticeable degree of symbiotic relations and interdependence between law and social change.

Savigny believed that only fully developed popular customs and laws could form the basis of legal change. As customs and laws grow out of the habits and beliefs of specific people, rather than expressing those of an abstract humanity, legal changes are codifications of customs. He believes that law is determined by the sense of justice and the moral sentiments of the population, and legislation can only achieve results by staying relatively close to the prevailing social norms. Law and especially legislation, is a vehicle through which a programmed social evolution can be brought about.

The law, through legislative and administrative responds to new social conditions and ideas, as well as through judicial re-interpretations of constitutions, statutes or precedents, increasingly not only articulates but sets the course for major social change. Attempted social change, through law, is basic traits of the modern world. In present-day societies, the role of law in social change is of more than theoretical interest. In many areas of life such as education, infrastructure, finance, transportation, energy, protection of the environment, politics and crime prevention, the law is an instrument of change.

Law does not always lay behind the times. One great merit of law is that it adapts itself to the changing needs of society and maintains stability when alterations disturb the relations in society. Law helps the society assimilate the changes by adjusting group advantages and injuries resulting from them. Law may become an advanced instrument of social change on a national as well as international level by affecting the social frame work in which relations take place. However, if law is greatly in advance of, or greatly behind, the trends of change in the society, it remains unenforceable. If it is in harmony with the process of change, it accelerates and institutionalizes changes.

Law plays an important direct role in regard to social change by shaping and orchestrating an idea and set behavior. For example: a law setting up a compulsory educational system will give value to education in that society, the Universal Basic Education Scheme in Nigeria will in due cause upgrade the quality of the labor force ;in Nigeria. On the other hand, law interacts in many cases indirectly with basic social institutions in a manner constituting a relationship between law and social change. For example: a law designed to prohibit polygamy will indirectly affect the morality of the society. Law plays an agent of modernization and social change. It is also an indicator of the nature of societal complexity and its attendant problems of integration.

Law is likely to be successful to induce change and ensure social engineering if it meets the following conditions:

A. Law must emanate from an authoritative and prestigious source

B. Law must introduce its rationale in terms that are understandable and compatible with existing values.

C. Enforcement of the law must aimed at making the change in a relatively short time. Those enforcing the law must themselves be very committed to the change intended by the laws.

D. The instrumentation of the law should include positive as well negative sanctions

E. The enforcement of the law should be reasonable, not only in the sanctions used but also in the protection of the rights of those who stand to suffer the violation.

Social engineering is a universal phenomenon as the same occurs in all societies. Society is never static. Both primitive as well civilized society also undergo changes. The process of changes may be fast or slow depending on the people concerned. Social change is community change as the same involves not single individuals but more /people. The speed of social change differs from society to society. The speed of social change today is faster than it was in medieval times. This is because factors which cause social change, do not remain uniform or even their existence may not be there. Factors like industrialization, urbanization, education etc. give impetus to social change.

4. Law and Social Engineering; the Perplexities in Nigeria

The return to civilian rule on the 29th of May 1999, after much dribbling by successive military administration renewed the hope of the average Nigerian in the opportunity for Nigeria to begin its quest for economic and social stability. After 14 years of democratic renaissance, it is obvious that we have not fared well based on our reasonable anticipations for positive social engineering.

The average Nigerian continues to ask himself/herself whether the constitution and other enacted laws have been a means of social engineering or a weapon of oppression and instrument to advance selfish and political interests. Particularly, when the former president of Nigeria Dr Goodluck Ebele Jonathan exercised his constitutional powers to pardon Drepreye Alameyseigba who had been convicted of corruption and embezzlement. Was the law of state pardon and Amnesty under the 1999 Constitution[20] made to benefit someone like Drepreye Alameyseigba.[21]

The argument in support of the action of the President is that the President is at liberty to grant amnesty conditionally or unconditionally, depending on his assessment of the circumstances warranting the grant of amnesty. This view, in my opinion emerged from the positive school of thought; I would prefer the realist school which views law as what the court says it is, being an institution that considers equity as well as law. I believe equity will not support such an exercise of discretion in such a circumstance.[22]

Several factors are responsible for the perception of law in Nigeria. The obvious root cause of the lack of confidence in our law is the level of corruption in the country. Olusegun Obasanjo,

[20] See Sec 175 0f 1999 Constitution

[21] See also the societal response to the issue of Amnesty for Boko Haram sect, issues of the immunity clause under section 308, issues of impeachment proceedings under sections 143 and 188 and the former declaration of state of emergency in Adamawa, Bauchi and Yobe States.

[22] Equity will not suffer a wrong to be without remedy.

former President of Nigeria admits that corruption is the greatest single bane of our society[23]. Chinua Achebe (of blessed memory) confirms that corruption in Nigeria has passed the alarming and entered the fatal stage; and Nigeria will die if we keep pretending that she is only slightly indisposed. The Supreme Court via Uwis, J.S.C (as he then was) in *A.G. Ondo State v. A.G Federation*[24] stated that corruption is not a disease which afflicts individuals alone but society as a whole. If it is therefore to be eradicated effectively, the solution to it must be pervasive to every segment of the society. Recently, the President of Nigeria; Dr. Goodluck Ebele Jonathan admitted while in South Africa that the perception index of corruption in Nigeria is very high and that he has reports about some corrupt Nigerian[25].

The problem of corruption is present in all human societies and wherever there is any form of social organization, one should expect a perversion of the order of things and indeed an affront on the value of human societies. The same is therefore expected of corruption, which is precisely a kind of behavior that deviates from the norms of the society.

Corruption is simply an act by a member of the society that flouts the public duty that the member owes to the society. The neglect of public duty as a result of corruption occurs because the individual seeks to satisfy his own selfish interests, rather than partake in promoting the common good. Corruption, as the abuse of public duties for private end, has become an aspect of the contemporary modern society.

In the preface to problems of Corruption in Nigeria[26] Professor Ayua posited thus:

> *Corruption is scourge of developed and development nations. Its baneful legacy has always been to defeat development and continuously multiply poverty. Indeed, it has been a major factor of poor governance and of political and economic instability in many countries particularly of Sub-Saharan Africa, Latin America and Asia. For almost 10 years, Nigeria has ranked either first, second or third in the transparency international global composite index on corruption, a situation which has not helped the development aspirations of the country particularly in the areas of attracting foreign direct investment, cancellation of it huge stock of external debt and promotion of economic stability.*

Generally, the scope of corruption is elastic. Globally it manifests itself in various forms as it could be collusive, exthortionary and anticipatory.[27]In Nigeria, corruption is manifested in various forms. It is no understatement to assert that at the root of it all is poverty, youth unemployment, poor remuneration system, lack of basic education, poor ethical and moral values, lack of effective pension schemes, ostentatious living by government functionaries and

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[23] This Day Newspaper July 26, 2016

[24] (2003) LPELR – 620 (SC) p.1

[25] The Nation Newspaper, Tuesday January 20, 2017 p.9

[26] In 2021, Transparency International (Y1) ranked Nigeria 90 out of 91 Countries, that is, the 2nd most corrupt nation in the world. In its corruption perception Index (CPI), 2002, Nigeria is again ranked 101 out of 102. See also Ayua, op. cit. at 7. In 2009, Nigeria was ranked 130 out of 180.

[27] See also Ayua, op. cit. at 15 and Azinge, E.: "Corruption in Nigeria" in Ayua I.A.& Owasanoye B. (eds): *Problem of Corruption in Nigeria*, op. cit. at 103.

lack of transparency, accountability and good governance.[28] Although the focus had been on the public sector, a holistic approach incorporating the private sector will lead to highlighting the imperatives of corporate governance.

Corruption covers a broad range of behavior normally associated with the abuse of public power for personal gain,[29] the commonest example of which is bribery, which is an illegal payment made to a government official state-sanctioned, authoritative act that has a selective and tangible impact and which in the absence of the selective payment would not otherwise have been made.[30] Corruption also include kickbacks wherein the illegal payment is made after the service is rendered, usually from a portion of the governmental award itself and extortion which involves the threat by the public official to use or abuse) state power to induce the payment of a bribe. Corruption also includes graft and embezzlement, where public officials use to appropriate public funds or divert their use as well as fraud which refers to the various, often complex and imaginative schemes orchestrated by officials to appropriate public funds, often with civilian accomplices. These may include establishing fake companies, listing ghost workers to payrolls, overbilling the government on contracts, or otherwise fixing the books to hide the disappearance of public funds. Corruption also covers such diverse acts like nepotism, favoritism and conflicts of interest, where public-sector jobs or benefits are illegally channeled to family, friends or to benefit of the decision-makers own interests. Corruption in the realm of electoral system consists of a range of activities such as illegal campaign contributions, illegal expenditures, electoral fraud and vote buying.

Attempts have been made to differentiate forms of corruption using various yardstick as the institutional location of the public official involved (i.e., corruption within the executive branch, the legislature or the judiciary, the local government, the police, customs agents, building inspectors, etc.). Based on this, corruption has been classified as "upper-level" and "lower-level" corruption whereby the former involves presidents, ministers, members of the legislature, governors and other high-ranking officials, while lower-level corruption relates to civil servants. Another differentiation is political corruption and bureaucratic corruption. "Political corruption" tends to refer to corruption occurring at the policy making stage or, the input side of the political system, whereas "bureaucratic" or "administrative" corruption relates to the implementation of

[28] Heywood, P.(1997), "Political Corruption: Problems and Perspectives", Political Studies 45(3), 417-35; Johnston, M. (2005), *Syndromes of Corruption: Wealth, Power and Democracy*, Cambridge University in Asia", European Journal of Development Research 10(1), 15-40;

[29] Lascoumes, P. and O. Tomescu-Hatto (2008), "French Ambiguities in Understandings of Corruption: Concurrent Definitions", *Perspectives on European Politics and Society* 9(1), 24-38; Mishra, A. (2006), "Persistence of Corruption Definitions", Some Theoretical Perspectives ", World Development 34(2) , 349-58; Mocan, N. (2004), "What Determines Corruption? International Evidence from Micro data" *National Bureau of Economic Research,Working Paper no*. 10460; Morris, S. D. (1991), *Corruption and Politics in Contemporary Mexico, Tuscaloosa,* University of Alabama Press; Morris, S.D.(2008), "Disaggregating Corruption: A Comparison of Participation and Perceptions in Latin America with Special Focus on Mexico", Bulletin of Latin American research 27(3), 388-409; Nye, J.S.(1967), "Corruption and Political Development: A Cost Benefit Analysis", American Political Science Review 61(2), 417-27.

[30] Peters; J. and S. Welch (1978), "Politics, Corruption, and Political Culture", American Politics Quarterly 6(3), 345-57; Robinson, M.(1998), "Corruption and Development, Frank class, London, 1-14;

policy carried out by lower level officials or the output side of the equation.[31] "Bureaucratic corruption" involves the violation of first-order norms (the written rules and laws that are the product of politicians' decision making), whereas "political corruption " committed by policy makers entails the violation of more nebulous second-order norms (the often unwritten guidelines determining how politician should make decisions, such as impartiality and fairness.

Syed Alatas[32]has also identified six forms of corruption. "Transactive" corruption involves the mutual arrangement between a donor and a recipient; "extortive" corruption implies some form of compulsion usually harming a party; "defensive" corruption refers to the act the victim of extortion is compelled to a engage in; "investive" corruption involves an act with no immediate payoff, but an understanding of a favour some times in the future; "nepotistic" corruption relates to family members being appointed to positions in the government; "autogenic" corruption entails one person acting alone with no official citizen exchange; and "supportive" corruption refers to acts designed to protect and strengthen existing corruption. On the other hand Mark Robinson, identities three forms of corruption: "incidental" corruption, which is confined to malfeasance on the part of the individual and is thus rare; "institutional" corruption referring to certain institutions that may be riddled with corruption due largely to the absence of control, and "syntholic" corruption which reflects situations where corruption is deeply entrenched and pervasive throughout society.

- In the administration of justice-bribing of judicial and court officials.
- In the legislature-bribing the legislators to pass a bill or impeach their leader or falsification of credentials

It is obvious; therefore, that corruption and other economic/financial/social crimes are endemic from their manifestation; their monstrous effect on the economy and other aspects of Nigerian life cannot be over emphasized. According to Obadan:

> *Corruption undermines the rule of law and the legitimacy of a state, destroys confidence in the integrity of institutions. It also accelerates crime, hurts investment, stalls economic growth, bleeds the national budget, burdens the poor disproportionably, and diverts scare resources from basic human needs. It has, in addition been a source of social and political tension in corrupt developing countries… Corruption has thus been a major element of the poor governance and instability in most development and transition economies-a phenomenon that requires strong political will and concerted action to subvert.*[33]

Nicollo Machiavelli, the philosopher who propagated the necessity for politics to be an amoral activity, once affirmed the fact that corruption is common to all societies, when he said: "How

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[31] Scott, J. C. (1972), Comparative Political Corruption, Prentice Hall, Englewood Cliffs, NJ. Warren, M. E. (2004), "What Does Corruption Mean in a Democracy" American Journal of Political Science 48(2), 328-43.

[32] Obadan, M.L. "Corruption Destabilization of Developing and translational Economics" Being a paper presented at the National Conference on the problems of corruption in Nigeria, organized by the Nigerian Institute of Advanced Legal Students: Abuja 25-29 March, 2001 at 1.

[33] See also Osipitan. T. *et al:*Structuring Measures against Corruption for Sustanable development" Being a Paper presented at the Nigerian Association of Law Teachers Conference: Lagos State University". Ojo 23-25 April, 2002 at 7.

easily are men corrupted and in nature transformed." True Indeed, it has been said that the scourge of corruption in many part of the world is a disease striking at the hearth of the society.

Nigeria has witnessed the continued spread of corruption throughout her history as an independent nation notwithstanding the various law enacted to combat the menace. Although corruption is conceived to be part of the nation's social features inception, in recent time the increase in the spread of the malaise of corruption has been so high that people tend to regard this evil act as inherent to the Nigerian public culture.

It is therefore unfortunately believed that, if there is anything which operated efficiently, uniformly and smoothly all over the country, it is the twin engine of the machinery of corruption and bribery. The phenomenon of corruption seems to be our unofficial ideology, our lingua franca, the universal language which is spoken and understood in every nook and cranny of Nigeria. This has been a perplexity in the drive to achieve positive social engineering in the country.

A problem, which can be primarily called a social problem but interlinked and interconnected – with religious problem, economic problem, political problem, occupational problem, residential problem, cultural problem and other innumerable problems interwoven in one problem is in fact, the social problem of corruption.

5. Social Engineering and the Role of the Judiciary

> *"This Court in which we sit is a Temple of Justice and the advocate of the Bar as well as the bench are equally ministers in that temple. The object of all equally should be the attainment of Justice.*[34]

The legal profession all over the world is regarded as one of the three noble, most ancient and revered professions in the world, the other two being Medicine and the Ecclesiastical order. The Legal profession's Honour, respect and integrity are sustained by public confidence and trust in its ability to arrive at just decisions to ensure positive social changes.

The legal profession underlies human existence and has its origin in divinity suggesting that life is regulated from the cradle to the grave by law. When a child is born the law prescribes the registration of his birth and issuance of birth certificate, when he grows up the law regulates his conducts, contracts and the devolution of his estate after death and even at death the law pre scribe the death certificate.

According to Chief Afe Babalola SAN:

> *"Under the new dispensation, lawyers should be more involved in political and social engineering. Being the light bearer by virtue of their special training, they should bear the light at every dark enclave to show hidden attempts at the lawyer in misgovernance misrule, and maladaunistration. The new dispensation must be dogged and determined fighter for freedom and equity and to ensure that the ordinary citizen is protected from threatened abuse of his fundamental rights through reckless and arrogant exercise of state powers the lawyers should take*

[34] Before Per Grampton J. in *R-V-O aconnel* (1884) LRI 261 et 312 Ade Alabi J 1999, The 1999 constitution and the Independence of the judiciary in Burning issues in the 1999 constitution (1999) Page 201-21.

> *their pride of place in society. The should Jettison the garb of egg-heads living like strangers in a splendid isolation in his own society oblivious of important development in the economic and social affairs of his country. The lawyers` role in the new policy should be that of an active participant in the platonic search for common good.*[35]

Law is the unseen chord that holds human society together, ensuring sanity and orderly behaviour. The judiciary must therefore set the tone for the right quality of justice by playing her role perfectly especially where the search for justice continues to escalate and justice continuously eludes the poor and powerless. The lawyer and judge must appreciate the special privilege as well as the enormous responsibility as ministers in the temple of justice in the process of interpreting the law[36].

Independence of the judiciary is no doubt a *sine qua non* for the attainment of social change. The rule of law is however a major impetus for ensuring an in dependent judiciary, there is a societal consensus that the legal process will be the way by which law and order will be maintained accountability and efficiency will be ensured and the operation in the society will be honest four and just. Those are the foundations of society engineering what is unfortunately lacking in Nigeria. The Honourable Chukwudifu Oputa (a retired Justice of the Supreme Court of Nigeria) in his essay said;

> *Without judicial independence, no judge or justice however well prepared by qualities of heart, mind and professional training, can give full effect to the enduring values enshrined in our basic law – our constitution. Since the independence of the judiciary is a concept and a role which have been unconsciously and sometimes willfully misunderstood, as the judiciary trying to turn itself into a government within a government, it becomes necessary to emphasize that any freedom, any immunity, any privileges accorded to judges are not accorded so much for their own sake, as for the sake of the public. No judges try his own case, nor should he try any case in which his close relatives or friends are involved. Any power given to the judge, therefore is not given for the self-advancement or self-aggrandizement. Such powers are necessary for greater efficiency in the administration and dispensation of justice. They are given for the advancement of justice – that being free and independent – the judges may be free in thought and independent in judgment, so that they may better and more efficiently and more effectively perform their necessary duties to the course of justice including protecting all of us – the government and the governed; the powerful and the weak – from power and its abuse…… A weak-kneed and dependent judiciary can be an awful, and ill wind that blows no one any good.*[37]

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[35] Afe Babalola, SAN, "Nigeria in search of a new polity: the role of lawyers". Essays in honour of Hon. Justice Mohammed Lawal Uwais: Edited by: J.A. Yakubu, Malthouse Press Ltd. P.70

[36] Recently, Hon, Jus. Chechukwu Okeke Sentenced 2 accused persons to 7 years imprisonment for selling take drugs that killed several children

[37] Hor. Chukwudifu Oputa- "Towards Greater Efficiency in the Dispensation of Justice in Nigeria an essay in *Law. Justice and Stability in Nigeria,* essays in honour of Justice Kayode Eso CON", LL.D.

It be realized that for as long as rule of law is prevalent in our society for so long shall the judiciary be unable to shirk its sacred responsibility to the nation to maintain the rule of law. It is both in the interest of government and all persons. The judiciary exists to foster the rule of law. We should not always fail just order on earth finds clear description in man giving to man what is his due. That, in essence, is what justice is all about. And such is the indispensability of justice that it is repeated in several portions of the Holy books – the Holy Bible and the Qur'an.

The term Judicial Independence has been described by the Judge thus:

> *"The modern concept of judicial independence and integrity contains many elements; basically, a judge should have security of tenure and can only be removed for specific grounds and by means of an adequate procedure. The process of selection of judges should be free from any political, personal or irrelevant consideration. Upon appointment a judge should receive adequate remuneration should be adequately safeguarded against being used as a means of asserting control over judges. He must be free from political or other pressure"*[38]

This means that a judge must first be immune from such a systems of distorting justices as direct pressure, bribery or approaches by litigant, a friend or counsel, he must also be removed from any sophisticated entanglements, be they political, personal or financial, which might actually influence him.

The principle of separation of powers which advocates for separate functioning of the three organs of governance is meant to ensure the independence of the judiciary; this however is what ought to be and not what is. What holds is that the judiciary overtly or covertly is being treated as an appendage of the executive, inadequacy of funds is a constant phenomenon which ensures that the chief judicial officers goes often to the executive officers cap in hands for funds. The judiciary must appreciate and recognize it roles. Independence of the judiciary is no doubt the panacea for the attainment of social engineering in Nigeria.

Law is a form of Social Science. Society and law are closely related to each other. Law prescribes the manner to live the social live and this also increase with the economic, Scientific and Technological progress in the society. Law also changes with social changes and plays an important role in the fulfillment of social needs, so for the fulfillment of social need, there is a need for judicial interpretation of the law and this is the responsibility of judiciary that law which violates the constitutional provisions, public interests and fundamental rights should be declared null and void.

(6) Recommendations

Today we study the day before yesterday, in order that yesterday may not paralyze today and today may not paralyze tomorrow.[39]

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[38] Ade Alabi J 1999, "The 1999 Constitution and the Independence of the Judiciary"*in Burning issues in the 1999 Constitution (1999)* Page 20-21.

[39] Gabriel Moens, (1989) Action-belief Dichtomy and Freedom of Religion" *Sydney Law Review, Vol.* 12 p.2

Having looked through history, there is a new political moral and ethics, inevitably leading to what is now a new form of expectation and agitation that Nigeria's government must deliver on the promise of constitutional democracy and social engineering. It is this new demand which undoubtedly brings more pressure to bear on the government to discharge their historic mission to not only monitor the changing times, ethos and mores of the society, but also to align our legal institutions as best as may serve the new needs and desires for a truly democratic dispensation ensuring a positive social change. The following are some of the indicators for a way forward.

- **Progressive Enactments and Amendments of Legislation**

The present popularity of the values of transparency and accountability within the democratic culture that is gaining popularity all over the world; the recognition by the international community that corruption in all countries should be curtailed through the concert of the international civil society and governmental regulations that discourage corruption in all corner of the world are all potentials that Nigeria need to tap into to ensure that its own legislative initiatives realize her desire of bringing corruption under control. The Legislature must amend the laws that are archaic or inadequate and enact new ones where there is a lacuna[40].

- **Efficient Enforcement of Legislations**

It is obvious that Nigeria has enacted many laws to combat corruption starting from the criminal and penal codes to the current anti-corruption legislations. The challenge however, has been the enforcement mechanism of these laws. It is perceived that its execution has been selective and politically manipulated. The law enforcement agencies cannot be totally trusted with this sacred task as their allegiance is usually to an Oga at the Top rather than the society. Some unscrupulous Police officers still openly extort motorists and assault innocent members of the society. The executive arm must as matter of urgency facilitate an efficient way of enforcing the laws to achieve a social change.

- **Independent Interpretation of Legislations**

Independent interpretation of legislation are required to ensure that our laws become an instrument of social change. The lawyer, as the watch dog of the people must through total commitment to justice necessary support to the judiciary; the last hope of the common man to arrive at just decisions in the interest of justice, fairness, equity, law, order, peace and progress. The Judiciary must detach herself from the moral decay eating into socio-economic fibre of the country and decide to be an instrument of social engineering.

- **Consistent Re-Orientation of Citizen**

Consistent Re-Orientation of Citizen is necessary to ensure that law achieves the objectives of social engineering. Media practitioner and stake holders must use every means necessary to educate the populace on the need to change their mind set and begin to conceive the desired change. They should all embark on campaigns to fundamentally alter the behaviors and ideals of the average citizen, to replace the old social frameworks of corruption, maladroitness and ineptitude with a new culture, to create the new Nigerian. They may use newspapers, social media, books, journal, films, etc. You are the change Nigeria needs.

[40] Afe Babalola, SAN, "Ibid 0.70

- **Determination by Stakeholders**

It is trite that despite the present situation of an endemic culture that has given Nigeria the notorious name of being one of the most corrupt countries of the world, there is still light at the end of the tunnel. A people not prepared to deal with the root cause of corruption will definitely assume a position of inferiority, atrophy and subservience in the comity of nations. The average Nigerian must be determined to begin the change and as operators of the legal system, the judiciary must resoundingly make it clear that the society must be built on the rule of law, justice, equality and due process not by mere rhetoric but by genuine and positive determination.

Finally, Nigerians must belief in the project called Nigeria and reflect on these issues. Someday, the victims of these failures, the children of tomorrow with a broken future will rise up in accusation against our generation. Someday, the aborted generation may take us to the court of posterity and the tribunal of history; we will all be cross examined on our roles today. The charges will be charges of nonchalance, greed, selfishness, nepotism, neglect, grievous errors in judgment, failure to fight corruption and failure to abide by our conscience or the rule of law. The exhibit will be the victims of countless religious riots and terrorism, the millions of impoverished citizens and abused Nigerian children who have lost their future, the violation of the social contract by the leaders and betrayal of trust by people in authority. We must decide to follow the due process of law and abide by the laws of our country to achieve a positive social change. The problem is not inadequacy of laws but the ineffective enforcement of the laws. Social engineering begins from an individual.

(7) Conclusion

Law is system of rules and guidelines which are enforced through social institutions to govern behaviour, wherever possible. It shapes politics, economics and society in numerous ways and serves as a social mediator of relations between people. *Contract law* regulates everything from buying bean cake (akara) to trading. *Property law* defines rights and obligations related to the transfer and title of personal and real property. Trust law applies to assets held for investment and financial security, while tort law allows claims for compensation if a person's rights or property is harmed. If the harm is criminalized in legislation, criminal law offers means by which the state can prosecute the perpetrator. *Constitutionallaw* provides a framework for the creation of law, the protection of human right and the election of political representatives. *Administrative law* is used to review the decisions of government agencies, while *internationallaw* governs affairs between sovereign states in activities ranging from trade to environmental regulation or military action.

The function of law have not changed, law is meant to define and regulate social relations, it is meant to identify and allocate official authority and settle disputes. It is trite that law is the fulcrum of social engineering, development, transformation and harmonious existence in the society. Law and justice are virtues of social institutions that produce democratic environment like Nigeria is rooted in law.