

Rule of law approach to alleviation of poverty: An analysis on human rights dimension of governance

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Abstract

A society without rule of law is similar to a bowl having holes in it, so it leaks. Without plugging the leaks, putting more money in it makes no sense. Almost this claptrap is going in the form of poverty mitigation programs. Retorting the fact, this paper reflects that substantial poverty must be implied as formed by society itself and argues that lots of inhabitants of the world are deprived of the opportunity to get improved livings and live in dearth, as they are not within the shield of the rule of law. They may possibly be the citizens of nation state in which they live; nevertheless, their chattels and workings are vulnerable and far less rewarding than these are addressed. To address this unfairness, the paper provides a concise overview on the impact of rule of law as the basis for the people of opportunity and equity following the study of analytical approach with interdisciplinary aspect. Particular emphasis is to be found on human rights dimension of governance, and legal empowerment for the alleviation of poverty.

Keywords Rule of law, Poverty alleviation, Human rights, Legal empowerment, Rights of poor

Paper type Review paper

1. Introduction

Alleviation of poverty is today's world concern as well as national and international point of view. In 1995, poverty marked as a foremost peril to the potential of human race in the World Social Summit held in Copenhagen. At the summit, participating states made three core commitments: firstly, to calculate approximately overall and acute income poverty; secondly, to put time-bound end and goals for the considerable diminution of overall poverty and the elimination of excessive poverty and finally, to implement countrywide anti-poverty plans to reach their end (Anyang'Nyong'o, 2001). Since 1997-2006 it has been declared by the United Nations to be a decade for poverty alleviation thus far a large number of countries are poor. UN General Assembly in December 2007, announced the second United Nations Decade for the



Eradication of Poverty for 2008-2017. Despite the fact of realizing the progress by this era, far-off the world's communities have gone at the back, still breathing in scarcity. They have no such protections and rights met by the law. So, this is not the want of resources or need of exertion that haul them back, but the reality that the resources and effort are unsafe, vulnerable, and far less prolific than they might be. Unauthorized narrow customs and institutions govern their lives and they are often exploited by it. As the deprived poor are in short of standard rights, they are bare to exploitation by the system that discriminate them. Such discrimination has massive consequences. And thus, people are barred from the rule of law. On theoretical framework, specialized reports, and review of relevant literature, there is a persuasive indication that once destitute segment of the society are shielded under the protection of rule of law, they can flourish.

2. Conceptual analysis of poverty

There is no distinctive precision of poverty, and therefore, definition of poverty is an arguable point, which differs from one country to another. Poverty is a status of denial relating manifold levels, from narrow income to susceptibility. As to conformist economic approach (Alfieri, 1987: 659-712), poverty is termed as the failure of receiving a marginal standard of living, beneath which people are discarded. The world's poor are experienced of inadequate shelter, health care, edification, and a want of voice in their society. In the eight Millennium Development Goals (MDGs), the UN development agenda based on the Millennium Declaration, calls for the purge of acute poverty in all its levels- income poverty, lack of food, ailment, inadequate shelter and education, gender inequality, environmental devastation etc.

In primitive period, the struggle simply to survive was vital for nearly everyone, while the modern age, includes every option to economic prospect generally accessible. In the preceding decades, new assets have been formed in contrast with all earlier times gone by. Now, no way can it be supposed that poverty is accepted or unavoidable. In brief analysis of the many causes of poverty, it may be explored three sections: socio- economic, political, and external. As socio-economic factors, high rate of unemployment, allocation inequality, unfair trade, economic trend, agricultural cycles, social inequality etc are considered; afterward, poor governance, centralization of power, prejudice and inequality, corruption and political instability etc are considered as political factors and ecological degradation; warfare, natural adversity etc are considered as external factors (Campa & Webb, 1999). Besides, the theory of culture of poverty acts imperatively.

'Culture of Poverty' concept explains the cycle of poverty. This social theory stands on the notion of the poor's distinctive value system. The supposition implies, the poor stay in poverty for the reason of their adjustments to the impediment of poverty (Parker & Kleiner, 1970: 516). Anthropologist Oscar Lewis introduced the idea of "Culture of Poverty" in 1959. Lewis gave some seventy attributes that signify the subsistence of the culture of poverty. Some of the points Lewis mentioned are:

- a. The poor do not have effectual partaking and assimilation in key institutions of the society in large. They allege to go with quite a few basic ideals; however, for the most part, are not in fact observed at all.
- b. Inadequate housing situation, crowding, extroversion, and a least amount of association characterize the life of the poor in the culture of poverty. Hardly ever comfortable momentary groupings or voluntary alliances within slums are available here.
- c. The dearth of youth, as a distinctively prolonged and secluded stage in the lifecycle, is a trait among some of the poor; as the same as early instigation into sex, open unions or consensual marriages. There is also a drift to female-centered family.
- d. A strong sense of marginality, feeling of not belonging, helplessness and dependency is the ultimate reality of people in the culture of poverty. They are similar to aliens in their own realm, convinced that the existing institutions might not serve their interests and wants. This sense of powerlessness is a persistent sentiment of inferiority and individual disgrace.

Although Lewis was concerned with poverty in the developing world, the culture of poverty notion proved striking to US public policy makers and politicians. In brief, the culture of poverty is an adjustment as well as a response of the underprivileged groups to their marginal status in an exceedingly segregated social order. But it is not merely an adjustment. Once it comes into reality, it has a tendency to go on with its outcome on age to age. Through the moment in time, children in poor environment are seven or eight years old, they habitually have engrossed the critical values and manners of their culture and are not sensitively able to take inclusive lead of changed stipulations or enhanced opportunities that might happen in their life span (Parker & Kleiner, 1970: 516). Hence, poverty is stirred by malfunction of civil rule.

3. Conceptual analysis of rule of law

To be aware of the notion of rule of law, it is necessary to inquire into two basic questions. First: how is the rule of law defined? Second: what is the rule of law concerned with? The conventional starting is Dicey's definition of Rule of Law in term of the equality before law and supremacy of the regular law as

opposed to the arbitrary power. A topical endeavor at this is by the late Lord Bingham (1933-2010), Lord Chief Justice of England and Wales, who argued that the basis of the principle of rule of law is that all persons and authorities within the state, whether public or private, are bound by law and entitled to the benefit of its protection. He grabbed with challenge of defining the rule of law by breaking it up into eight sub rules (Bingham, 2010: 37). His discussion of these sub-rules has been one of the most influential up to date discussions of the rule of law. The sub-rules are as follows.

- a. The law must be available and, so far as feasible, comprehensible, clear and predictable.
- b. Instead of the exercise of discretion, generally application of the law must determine questions of legal right and liability.
- c. Equally before law be supposed to uphold, based on reasonable classification.
- d. At all levels, government officers must implement the authority bestowed on them in good faith, justly, reasonably and not beyond authority or *ultra vires*.
- e. The enactments of law have to meet the satisfactory safeguard of basic human rights.
- f. Procedural support should be made available for mitigating *bona fide* civil disputes without excessive cost or undue delay, which the parties themselves are unable to resolve.
- g. Adjudicative procedures should be fair.
- h. The rule of law entails conformity by the state with its obligations in international law as in national law.

A quantity of issues arising from these sub-rules are being considered here as the apprehension of rule of law. There are values of governance that should be treated as undisputed assertions for the way society is to be led in a modern welfare state. The initial principle is the rule of law: a legal system is put in place and all members of society must respect the laws produced by this system and are subjected to them. A justifiable and democratic system of government requires to be based on the rule of law. This means that, individuals will look for maximizing their interests as citizens bestowed with rights and obligations by the state on the basis of rules and regulations put down by the legislature, implemented by the executive wing of government and adjudicated by the judiciary. It is the principle that might be called 'the rule of fundamental human rights'. While the rule of law is an obvious necessity for any system of law that has integrity, the rule of fundamental human rights is a requirement of civility in the recognition of the rule of law and its subordination to the requirement of preserving fundamental human rights and evasion of cruel and unfair laws.

Indeed, recent outsets of the rule of law have widened it in this trend. Hence, what is free and what is fundamental will be the subject of argument and debate. With the words ‘inviolable layer,’ it could be conceptualized a first layer that is inviolable, and in no way can be touched upon by executive or legislative powers; above that layer there is a more flexible area that is also related to basic human conditions, but might be freely shaped according to governmental or political insights (GFC poverty report, 2008).

4. Links between rule of law and poverty alleviation

Poverty is an opposite of progress. It is usual that development is a basic right of human being. Thus, poverty is a refutation of one’s basic human rights. Concerning this, the Human Development Report of 2000, argues that poverty reduction needs a successful realization of economic, social and cultural rights as well as civil and political rights. Observance of human rights is an ingredient of the rule of law. A remarkable apprehension of developed social order is the rule of law and the correlated insights of this. For instance, realizing democratic society free from exploitation, good governance, socio-economic and political justice and other estimable goals are all supposed to center, no less than in part, on the rule of law. Policy promulgators and lawmakers in rising nations are accordingly looking for means to ascertain or toughen the rule of law in their states. Observances of the civil and political rights keep the society in a state of peace and tranquility and people get the opportunity of economic growth. On the other hand, observances of the economic, social and cultural rights enable the state to achieve the continuous improvement of living conditions to take of the shoes of poverty.

5. Rule of law approaches against poverty

When the law furnishes support to everybody, it delineates and inflicts the rights and obligations of the entire. This authorizes everyone to act together in a definite and expected status. In this way the rule of law acts not just an embellishment to development; also acts as a fundamental source of progress. It forms an upbringing in where the ultimate range of individual ingenuity and prosperity could be achieved. Following issues ought to be focused to ascertain whether rule of law boosts development and reduces poverty.

5.1. Rule of Law as an aim of development policy

World leaders have acknowledged that the rule of law is decisive for economic growth, sustainable development and vital for the eradication of poverty and hunger (GMR-Full-Report, 2014). A want of resources might not simply be termed as poverty. Above and beyond it is mostly about inadequate access to justice in all spheres. Lots of inhabitants of the world are excluded from their legal rights that hinder them from possibilities and privileges and make hurdle

to guard themselves against capricious and unfair dealings. Being responsive to such prejudice, rendering the poor powerless, the World Bank and its associates have enhanced worthy implication on reforms in legal and judicial arena in the concerned nations throughout the preceding era (Burnside & Dollar, 2004). The latest, and enormous establishment of resources rests upon a variety of legal safeguards, and rules prevailing as business organizations, companies, trade unions, employment agreements, scheme investment, indemnity, tradable assets and intellectual property (GMR-Full-Report, 2014). Though the identical safeguards and mechanisms subsist in several developing countries, the vast mainstream is lacking of access to these. Even though this veracity, the legal foundations of private enterprise, service, and market dealings are frequently settled by conventional approaches to growth.

5.2. Legal empowerment of the poor

Legal empowerment provides a progression of universal transformation in the course of that the poor and disadvantaged groups apply laws and make use of authorized and official arrangements to secure their civil liberties along with sustainable benefits. The fundamental institutions of the social order depend on law. A prosperous and comprehensive market could afford the economic liberty that permits governments to perform their own obligations. For instance, the marketplace not only echoes basic choice, besides creates resources to award and uphold individual rights. In short, at this legal empowerment route, the poor comprehend their interests and get benefits of the fulfillment of their rights of citizen. If law is a stumbling block to the poor people who hope to upgrade their situation, if law is deemed as a barrier to self-respect and self-preservation, then the rule of that law as a valid foundation would almost immediately be rejected. Law would be valued as a basis of just and fairness if that law is received and embedded as security and equal opportunity along with guarantee of access to just and impartial course of action in general. Development never follows fixed methodology. Means and methods for the guarantee of peoples' basic rights ought to be personalized gradually which would be varied states to states. In such a development process legal empowerment is fundamental strength. It entails states carrying on the obligation on the way to protection, value and accomplishment of basic human rights, and also includes poor realizing their rights further, and obtaining the prosperities and privileges that move forward. The factors of legal empowerment are stranded in strength and correspondence of international human rights laws, and on the whole, Article 1 of The Universal Declaration of Human Rights (UDHR), 1948, proclaims, "All human beings are born free and equal in dignity and rights."

5.3. Access to justice

Rule of law and access to justice are fundamental amongst all which guarantee

the entire rights and privileges. Legal empowerment is not viable whilst, *de jure* or *de facto*, underprivileged people are left with no entrance to a well-functioning justice system. Wherever ideal laws preserve and inflict civil liberties, constitutional privileges and commitments; the benefits and development to all, particularly for poor, are beyond measured. Assuring fair access to justice, although elementary to steps forward, is tough to carry out. Still if the legal structure is theoretically wide-ranging and just, reasonable access to justice could merely be comprehended along with dedication of states and civic organizations. Legal empowerment measures (under Report of the Commission on Legal Empowerment of the Poor, UNDP, Vol.1, 2008) at such sphere have to:

- a. Undertake everyone's basic rights to legal identity, registered at birth;
- b. Abolish or amend laws and policies that are prejudiced against the rights, interests, and living of poor people;
- c. Support the establishment of state and the social order, associations and unions, including paralegals concern for the interest of the excluded;
- d. Create a justifiable state control on the means of coercion, from side to side, for instance, efficient and fair policing;
- e. Build the proper judicial arrangement, property management scheme, and related community establishments available with distinguishing, traditional and easy integrated legal measures by way of which the poor are previously well-known;
- f. Promote judges and magistrates to award proper contemplation to the poor's interests;
- g. Hold up means and methods for ADR (alternative dispute resolution);
- h. Extend admittance to legal aids so as the poor would be familiar with legal environment and capable to get benefit of these;
- i. Ensure tangible steps for the legal empowerment of women, minorities, indigenous peoples, refugees and internally displaced people.

5.4. Guarding rights and benefits

Renovating the social order to take account of the poor requires all-inclusive social, political, economic and legal reforms. For time being, transformation is not likely to appear a trouble-free option. Realistic reimbursements become evident as soon as the poor get security and opportunity in the legal system. At all stages economic achievement increases local markets and heighten pecuniary acts. As the rule of law expands, grasping set-up that abuse weak peoples in the unofficial economy, start in on straighten out and people day by day develop a venture in reducing transgression and preserve peace and order. This change achieves force and embraces reformist thoughts and thus governments are accorded to boost integrity, particularly amongst political

communities whose voices were beforehand unheard. In such approach, legal empowerment could epitomize and live out an undeniable plot for advancement. Although, many other improvement incentives, for instance: spending more in education, infrastructure, community services, and increasing involvement in employment, and adjusting the environmental changes, etc, are crucial and legal empowerment is not an alternate for these development initiatives, but it goes with such initiatives and multiplying their outcomes it creates the stipulations for progress. Nations living in miserable poverty have need of instant support and particularly well-planned involvements. When laws and governments are reformed to properly recognize the underprivileged people and laws could be made to work for one and all, poor who are debarred would promptly set in motion on going beyond the existing status and put in to the way out of relentless political, economic and social problems. Indeed, a special protection of some human rights including business rights, labour rights and property rights must be ensured by the law to alleviate poverty.

5.5. Special safeguard of property rights, labour rights and business rights

A central phase of state mechanism and significant indicator of its efficiency is the property system of a state. In a state sphere, property rights are to be implicated as a group of civil liberties, privileges and pledges concerning people and resources. In all property rights systems building security and certainty are indispensable, in spite of variety of property systems around the world. From the view point of economic concepts, to be entirely productive, property or resources have to be officially acknowledged by a lawful property rights system. Being a sign of regular records, in accordance to the law; titles and agreements give family matters and businesses safe and sound tenure that protects them from inadvertent elimination. Property rights, as well as tenure security through escalating the variety of justification of the terms expands societal interests and opens the opportunity of acquiring credit through the guarantee of these, such as a commercial loan or a mortgage. A significant issue is the difficulty of using the rules and regulations to advance upright employment in support of the working poor. The center of attention ought to be given on sighting the appropriate sense of balance among precautions, accommodating arrangements, and flexibility for unions mutually in the official and informal economy. A planned work on reforms is essential that would minimize the expenses of access to the recognized economy for mini commerce and consequently labour rights could be more efficiently established. Prolific and well-mannered labor would lift people away from poverty (Resolution on decent work and the informal economy, ILO; 2002). Thus, legal registration radically advances production and prosperity of casual trade and transactions.

6. A matter of frustration and an agenda for changing the way forward

The rule of law is often put into practice as rule by law or man that capriciously and inequitably applied in violation of human rights. Whilst citizens in poor countries might have rights on paper and that is a lot wherever they remain. In a good number of prosperous countries, on the other hand, the mainstream of natives have potent rights and duties, whether as workforce, businessmen, dwellers, or land owners. If their liberties are despoiled, they get remedy of the law; if state infringes its obligations, legal action can be taken against state. Conversely, the figure of the poor, as instance, in proportion to the overall African residents has been gradually increasing since independence. Yet Africa has the wealth and the potential to defeat this awkwardness if only public revenues are utilized reliably and fairly, resources are used productively for fulfilling human goals and public powers put priority to meet basic human needs and not undue human wants. A few aver that ending poverty depends mainly on allowing free market forces while others affirm greater assurance on the lead of government. Nevertheless, both of these conventional visions are lacking of a crucial component of the manifestation. Development not simply depends on markets and economic policy; rather development issues are mostly based on how laws and institutions role and relate to people which consecutively reveals how rights and weights are shared and shaped in society. Hence an agenda must focus on legal issues that are specific to low-income individuals, interconnect the substantive area of law and its impact on low-income individuals and enable the State at all levels, particularly in local areas, and be successfully responsive towards the Rule of Fundamental Rights. So, a sweeping shift in thoughts and approach by states and global institutions is urgent with an ultimate agenda in alleviation of poverty.

7. Concluding observation

Empowering poor people by the rule of human rights law within a society to recognize the poor's immense prospect would let them to grip their providence as well as citizens of the global village and as pioneers of development. So, sequentially it would facilitate countries to be prepared to fight against the challenges of poverty (Sen, 2009:12). Two foremost means for empowerment of the poor are identity and voice. These can be shaped by the 'rule of law' with 'human rights' dimension. Of course, rule of law is not an alternate for other essential development initiatives against poverty; rather it balances the development initiatives and ideas, flourishing their strength to accumulate the conditions for attainment. Hence, state should develop a well-considered system as to the compatibility of legislation with basic values of the society to fight against poverty. We always have to be conscious about the peril of losing the delicate balance that is the very fundamental of the rule of law, very basic of

the rule of fundamental rights and of a society that protects all its citizens at a minimum civilized level, free from extreme poverty.

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