

THE ROLE OF LAW AND POLICIES IN THE ECONOMIC DEVELOPMENT OF COUNTRIES— A LOOK FROM SCHOLARS PERSPECTIVE.

CHUKWUMA CHISOM*

1.0. ABSTRACT

There has always been a lot of controversy on law and the economy, even as far back as the writings of John Maynard Keynes. This controversy has always bordered on the role of law and policies in the economic development of countries. However, while many scholars have disagreed and do not believe that law and policies play an important role to the economic development of countries, other scholars like Posner Richard, Daniel Murphy, and Ronald Coase not only opine that law and policies play a non-negotiable role in economic development, they also believe that law and policies are the backbone of economic development in any country.

Several scholars have published papers and thesis on the nexus between the law and economic development. It is therefore not surprising that the 21st century researcher has access to an overwhelming abundance of literature on the joint field of law and economics. Against this backdrop, this paper seeks to examine scholars' contributions to the role of law and policies in the economic development of a country.

Keywords: Law, Policies, economic, role.

2.0. LITERATURE REVIEW

Hitherto, there has been a few articles or books that have attempted to examine the importance of law and policies to the development of a country's economy. An example is Kelman who questioned the absence of law and macroeconomics but failed to present a unified thesis on both fields of study.¹ Similarly, Salam suggested that there was a dire need for lawyers to pay attention to the “art” of Macroeconomics.²

Recently —especially after the global economic crisis of 2009 — scholars have become more passionate about examining the impact of law on macroeconomics. Listokin, however, argued on how law's counter effects could be augmented, with a special emphasis on the destabilizing

*student, faculty of law, university of ibadan. chukwumaanthony131@gmail.com

¹ M. Kelmen, ‘Could Lawyers Stop Recession? Speculations on Law and Macroeconomic’ (1993), 45 STAN L REV. 1215

² B. Salam, ‘The Art of Law and Macroeconomic’ (2012) 74 U. P.H.L. REV. 131, 164.

effects of tax expenditures.³ Akinade only deserted the effect of monetary policy on economic development.⁴ Sanusi argued on the “effect of Macroeconomic policy on unemployment⁵ while Ramirez recently suggested that macroeconomic considerations are inherently at play whenever laws or policies implicate economic stability, economic-growth and efficiency.⁶ This paper collates the contribution of various scholars on the role of law and policies to the economic development of countries.

3.0. INTRODUCTION

Black's Law Dictionary defines law as “a body of rules of action or conduct prescribed by controlling authority, and having binding legal force which must be obeyed and followed by citizens, subject to sanctions or legal consequence in a law.”⁷ On the other hand, “a policy is that which outlines what a government is going to do and what it can achieve for the society as a whole. Policy can also be defined as that which the government intends or plans to achieve. It also involves the principles that are needed for achieving these goals.”⁸ Similarly, “Economic development is a term used to describe concerted actions undertaken for the specific purpose of economic progress within a specific area. It has be described as the process by which wealth is generated, gathered and sustained in the polity.”⁹

According to Rowley, Law and economics can be defined as “the application of economic theory and econometric methods to examine the formation, structure, processes of impact of law and legal institution.”¹⁰

4.0. HISTORY OF LAW AND ECONOMICS

Since the last thirty years, the scope of economics has expanded dramatically beyond its traditional domain of explicit market transactions.¹¹ Today, there is an existence of economic

³Y.Listokin, ‘Law and Macroeconomic:The Law and Economic of Recessions’ (2007) *Yale Journal on Regulation*(34)

⁴ J. Akinade, ‘Sanusi on Monetary Policy and Evonomic Development in Nigeria,’ (2012) Researchgate271386055

⁵A. Sanusi, ‘Output and Unemployment Dynamics in Nigeria, Is There Evidence of Jobless Growth?’(2012) JEL,(S4)(3) Class, E24, J01.

⁶S.A. Ramirez, ‘The Emergence of Law and Macroeconomic, From Stability to Growth to Human Development’ (2020) 84 Law and Contempt- Probs-219

⁷Black's Law Dictionary, 6th Ed., S.V

⁸DifferenceBetween.net, “Difference Between Law and Policy” (2011)

⁹CompleteCommunitiesToolBox, ‘Planning For Complete Communities in Delaware’ (2012)

¹⁰ C. K. Rowley, ‘Public Choice and the Economic Analysis of Law’ (1989), Law and Economic, Boston Academic Publishers (123 – 174)

¹¹J. Hirshleifer, ‘The Expanding Domain of Economic’(1985) pg 5

theory of commercial rights and other organizations, policies of government, learning, marriage, history, information, racial and sexual discrimination, privacy, even of the behavior of animals and overlapping all these; is Law.¹² Traditionally, law and economics is an American product, one of the first application of comparative law and economics. It is therefore the translation of such a paradigm to different institutional setting not only the civil law but also outside the western legal tradition.¹³

It is noteworthy that the recent manifestation of law and economics can be traced to the United States of America (USA) in the late 1950s and was accepted by the legal community from 1970s onwards.¹⁴ Recent historical research has shown that in the nineteenth century Europe, there existed a broad scholarly movement with the ambition of showing how a better understanding of law could be achieved through the use of economic concepts and methods.¹⁵

Ronald Coase and Guido Calabresi in the 1960s separately published earthshaking works, “Some Thoughts on Risk Distribution and Law of Torts and The Problem of Social Cost.” This has been described as the starting point of modern school of law and economics.¹⁶ Lately, many scholars have emerged in the young field of law and economics; published and also written extensively in law and economics. Those scholars include but are not limited to Posner Richard, Yair Listokin, Daniel Murphy etc.

5.0. THE ROLE OF LAW AND POLICIES IN THE ECONOMIC DEVELOPMENT OF COUNTRIES

As noted by Yair Listokin and Daniel Murphy, many would think that between law and macroeconomics, the latter plays a crucial role in law but this is not always the case as it has been proven in many publications that laws and policies made in a country and even international law and policies adopted, play a substantial role in the economic growth of nations.¹⁷

Tom Ginsburg noted that the primitive law and economic scholars concluding from Weber's works have it that, the earlier development of capitalism can be attributed to the important role

¹² R. A. Posner, ‘Economic Analysis of Law’ (1986)

¹³ U. A. Matter and others ‘Comparative Law and Economics’ (2000) pg:506

¹⁴ E. Mackey, “History of Law and Economic” (1999) pg. 66 0200

¹⁵ Ibid.

¹⁶ R. Posner, ‘The Economics of Justice’ (1983) Cambridge: Harvard University Press Pg: 4

¹⁷ Y. Listokin & D. Murphy, ‘Macroeconomic and the Law’ (2019) Annual Review of Law and Social Science 15, 377396

law played.¹⁸ Weber's sociology posits that rational system of law played a crucial role in the economic development of the protestant West by allowing individuals to order their trade with predictability.¹⁹

In the same vein, James D. Hamilton, indicated that monetary policies played a significant role in the great depression of 1930 though he stressed that policy and law were not the only reason for the downturn of 1929-1930 but he went further to advocate the study and understanding of the impact and contribution of monetary policy to events after 1930.²⁰

The New Deal(Law and Policies) helped in the recovery after the great depression which led to the promotion of security for workers, affordable house and employment opportunity with the Employment Act of 1946.²¹

Even the impact of law and policy to the Great Recession of 2008/2009 was not left out and many scholars have pointed this out. It is noteworthy that the Policy Response of 2008/2009 Great Recession has been utilized in both advanced and developing economies²² John B. Taylor has it that monetary policies, regulatory policies and fiscal policies before the Great Recession became less predictable which added to the crisis. He noted that policies should be on the list of possible causes of the crisis and the same policies became a likely cause of the slow recovery. He went further to give an instance that monetary policy starting from 2003 to 2005, the federal Reserve interest were unusually low in comparison to the policies of the previous two decades, meaning that there was a huge change in policies in 2003 compared to that of 1980/1990's.²³

Speaking on the economic growth of China, Clarke, Murrell and Whiting pointed out the changes in legal framework over the three decades of economic reform, as a tool to manage the

¹⁸ T. Gimsburg, 'Does Law Matter for Economic Development' (2000) Evidence For East Asia, Law and Society Review Vol. 34 No. 3

¹⁹E. Shils& Others 'Max Weber on Law in Economic and Society'(1954) Cambridge: Harvard University Press.

²⁰J. D Hamilton, 'Monetary Factors in the Great Depression (1987) *Journal of Monetary Economics* (19)145-169, Worth Holland

²¹J. Klein "The politics of economic security: employee benefits and the privatization of new deal liberalism" (2004) journal of policy history. Vol. 16, No. 1. 2004

²²Verich& Others 'The Great Recession of 2008-2009 Causes, Consequences and Policy Responses'(2011) 12A Discussion Papers, No. 4934, Institute of Study of Labour (12A), Bonn.

²³J.BTaylor, 'The Role of Policy in the Great Recession and The Weak Recovery'(2014) @ American Economic Association Meeting pm Jan 3, 2014.

state sector and other recognizable functions. Thus providing the rules and processes that contributed to China's economic growth.²⁴

Kuntanalyzing Jayaratne and Strahan's work opined that the bank branch reform increased drastically, the bank-lending quality and hastened real per-capital growth rate. The local financial development enhances the possibility of individuals starting businesses, increases industrial competition and promotes growth of firms. Meanwhile, the 1985 Deregulation Eliminating Government Intervention in bank lending fostered greater competition in credit market, inducing an increase in allocative efficiency across firms.²⁵

Even in Nigeria, many scholars have researched on the role policies and law play in Nigeria's economic development. Adegboye whose study focused on fiscal, monetary and tax trade policies showed how government policies affect the economic growth in Nigeria. He went further to recommend that policymakers should place more emphasis on using fiscal policy which was found to be stimulating the country's growth rate and monetary policy to stimulate economic growth.²⁶ Onyeiwu pointed out that "monetary policies of the government in Nigeria plays a crucial role in influencing the level of economic productivity in the country."²⁷

6.0. CONCLUSION

An examination of the contribution of various scholars has been undertaken in this paper. It is crystal clear that laws and policies, both national and international, contribute immeasurably to the economic development of a country. Therefore, all hands must be on deck, starting from international organizations, national governments, central banks, policy makers, the Legislature, the Judiciary, educational institutions, private sectors etc. to ensure the laws and policies that are being made have great effect on national development.

²⁴ D. Clarke & Others 'The Role of Law in China Economic Development' (2007) CUNYI2471 Brandt and Rawski

²⁵ J. J. Strahan, P. E, 'The Finance Growth Nexus, Evidence From Bank Branch Deregulation' (1996) Quarterly Journal of Economic 111, 639-670

²⁶ Adegboye & Others 'Economic Restrictions and Currency Performance: Evidence of African Countries' (2021) *Future Business Journal*

²⁷ C. Onyeiwu, 'Monetary Policy and Economic Growth of Nigeria' (2012) *Journal of Economic and Sustainable Development* (3) (7) 2012 ISSN 2222-1700 (Paper)