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Appraising the Role of Law in Social Movement and the Attainment of Justice

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Abstract

The central aim of this paper is to examine the role of law in social movement. Legal institutions have historically served as both tools for maintaining the *status quo* and avenues for transformative change. The paper argued that the role of law in social movements is multifaceted, encompassing both structural and dynamic contributions to the evolution of collective struggles for justice. It synthesized key insights from contemporary scholarship on the interplay between law and social movements, observing that the law often operates as a double-edged sword. On one hand, it reinforces hierarchical relationships and institutional conventions that sustain systemic inequalities while on the other hand, it provides mechanisms for challenging these structures through legal mobilization, litigation, and advocacy. Social movements leverage law to frame grievances, unite activists, and build collective identities. Using the doctrinal research method, which relies on both primary and secondary sources, the paper argued that legal concepts such as rights and litigation serve as rhetorical tools to inspire action, legitimize demands, and negotiate with adversaries. It observed that litigation plays a critical role in shaping social movements by offering symbolic victories, creating public awareness, and generating indirect effects. Procedural elements such as claims, discovery, and record-building allow activists to gather evidence, validate experiences, and influence public opinion beyond the courtroom. The research concluded that the role of law in social movements is inherently contingent on context and struggle, which serves as both a barrier to change and a catalyst for reconstituting institutional order. By navigating this duality, social movements harness law to challenge injustices, build solidarity, and envision alternative futures for justice and equality.

Keywords: Law, jurisprudence, theories, social movement, justice, equality

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1. Introduction

Social movements have historically leveraged law as both a tool and a battleground for achieving transformative societal change. This paper explores the multifaceted relationship between law and

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social change brought about by social movements, examining how legal frameworks can empower, constrain, and shape collective struggles for justice. It adopts a conceptual framework that gives clearer meaning to the subject matter, focusing on several legal and thematic theories that addressed and justify the topic. The paper addresses issues of law as a catalyst for social movement and dovetails into law and social movement in Nigeria with a series of examples of how law has aided most social movements in the country.

2. Conceptual Framework

A conceptual framework is an essential component of a research work of this nature because it will help to provide some clarity. This framework acts as a blueprint for the study, outlining key concepts such as Law, jurisprudence, social, social movement and justice.

2.1 Law

The apparent question of what law is, is complex, ambiguous and perplexing because it entails the unveiling of the ontological nature of law.¹ In the words of Niki Tobi JSC, “law is an absolute terminology. It is not only abstract; it is vague and nebulous. It has no precise legal meaning, *a fortiori*, or a precise legal definition. It is a large term, which is impossible to a meaningful delimitation as a scope and concept”.² The term ‘Law’ denotes different kinds of rules and principles. Law is an instrument that regulates human conduct/behaviour. Law means justice, morality, reason, order, and righteous from the viewpoint of society. Law means Statutes, Acts, Rules, Regulations, Orders, and Ordinances from the point of view of the legislature. Law means Rules of Court, decrees, judgments, orders of courts, and Injunctions from the point of view of Judges.³ Therefore, Law is a broader term that includes Acts, statutes, rules, regulations, orders, ordinances, justice, morality, reason, righteous, rules of court, decrees, judgment, orders of courts, injunctions, tort, jurisprudence, legal theory, etc. In Old English “Lagu” is law, ordinance, rule or regulation old Norse “lagu” is law collective Plural of “Lag” which is layer, measure, stroke ‘literally’ something laid down of fixed. Generally, the term ‘law’ is used to mean three things: First, it is used to mean ‘legal order’. It represents the regime of adjusting relations and ordering conduct by the systematic application of the force of organized political society. Secondly, the law means the whole body of legal percepts which exists in a politically organized society. Thirdly, law is used to mean all official control in a politically organized society. This led to the actual administration of Justice as contrasted with the authoritative material for the Guidance of Judicial action. The law in its narrowest or strict sense is the civil law or the law of the land.⁴ Given the above, the law has been circuitously defined as follows: “Law, says the judge as he looks down his nose, speaking clearly and most severely. Law is as I’ve told you before. Law is as you know I suppose. Law is but let me explain it once more. Law is the Law”.⁵

¹ M.M Uzomah, ‘The Concept, Meaning and Nature of Law: Toward a General Conceptual and Ontological Configuration of Law’, (2018) 5(1) *Ekpoma Review*, 38.

² Niki Tobi, *Sources of Nigerian Law* (st edn, MIJ Professional Publishers Ltd, 1996) p.10. See also A Taiwo and I.F Koni (eds), *Jurisprudence and Legal theory in Nigeria*, (1st edn Lagos: Princeton and Associates Publishing Co. Ltd, 2019) 29-30.

³ “Jurisprudent Unit-1”, Available online at <https://law.uok.edu.in/Files/5ce6c765-c013-446c-b6ac-b9de496f8751/Custom/jurisprudence-Unit-I.pdf#:~:text=Law%20means%20Justice%2C%20Morality%2C%20Reason%2C%20Order%2C%20and,from%20the%20point%20of%20view%20of%20Judges>. Accessed 29 March, 2025.

⁴ *Ibid*.

⁵ Geoffrey Rivlin, *First Steps in the Law*, (1st edn, Blackstone Press Limited, 1999), 13. See also Auden, cited in Jettrie et al, *Philosophy of Law*, (American: Roman and Allanhld Publishers, 1984), 7.

In practical terms, it is very difficult to define the term law. Many Jurists attempted to define the term, and for clarity, some of the different definitions are categorized as follows. According to Salmond “the law may be defined as the body of principles recognized and applied by the state in the administration of justice”.⁶ John Austin (1790-1859) an English jurist expounded the concept of analytical positivism, referring to law as a command of a sovereign backed by sanction. He developed logically, a structure of legal system in which he gave no place to values, morality, idealism and Justice. According to Austin, a law, in the strict sense is a general command of the sovereign individual or the sovereign body issued to those in subjectivity and enforced by the physical power of the state. According to him “law is the aggregate of rules set by men politically superior or sovereign to men as politically subject”. Austin says, “A law is a command which obliges a person or persons to a course of conduct”.⁷ Thomas Erskine Holland, a reputed Jurist, who followed Austin’s concept and nature of law attempted to define law as a general rule of external human action enforced by a political sovereign. He also measures or defines law with preference to the sovereign devoid of moral, ethical or ideal elements which are foreign to law and jurisprudence.⁸ John Erskine’s definition of law is the command of a sovereign, containing a common rule of life for his subjects and obliging them to obedience.

According to Hart, law is the combination of primary rules of obligations and secondary rules of recognition⁹ while Hans Kelsen’s definition of law According to Kelsen legal order is the hierarchy of the norms, every norm derives its validity from the superior norm and finally, there is the highest norm known as *grundnorm*.¹⁰ According to Hart Law is the combination of primary rules of obligations and secondary rules of recognition.

In the context of definition from the Historical school of law, Von Savigny’s Historical Jurisprudence examines the manner or growth of a legal system. He argued that law is not a product of direct legislation but arises from the silent growth of custom or the outcome of unformulated public or professional opinion. He contended that law is a body of rules set by determinate authority but as rules consisting partly of social habitat and partly of experience. He says law is found in society, it is found in custom.¹¹

According to the sociological school, the common field of study of the Jurist is the effect of law and society on each other. This approach takes the law as an instrument of social progress. Ihering defines law as ‘the form of guarantee of the conditions of life of society, assured by state’s power of constrain’. He says the law is a means to an end and the end of the law is to serve its purpose which is social, not individual¹². In Dean Roscoe Pound’s definition of law, law is a social institution to satisfy social wants. He argued that law is an instrument to balance the competing or conflicting interests in society¹³. Dias’s definition of law consists largely of “ought” (normative) propositions prescribing how people ought to behave the “ought” of laws are variously dictated by social, moral, economic, political and other purposes.¹⁴ The Realist School opines that law is a

⁶ John Salmond, *Jurisprudence or the Theory of the Law* (1st edn, Stevens and Haynes 1902) 12.

⁷ John Austin, *The Province of Jurisprudence Determined* (John Murray 1832) 11.

⁸ TE Holland, *The Elements of Jurisprudence* (13th edn, Clarendon Press 1924) 42–43.

⁹ H.L.A. Hart, *The Concept of Law* (3rd edn, Oxford University Press 2012) 79–99, 107–117.

¹⁰ Hans Kelsen, *Pure Theory of Law* (Max Knight tr, 2nd edn, University of California Press 1967) See the Hierarchy of Norms/Structure: Chapter V, 'The Legal Order', p 193 or the *Grundnorm* (Basic Norm): Chapter V, Section 34, 'The Basic Norm', 201.

¹¹ R. D. M. Dias, *Jurisprudence*, (London: Butherworths, 1985) 378. or Friedrich Carl von Savigny, *Of the Vocation of Our Age for Legislation and Jurisprudence* (Abraham Hayward tr, 2nd edn, 1831).

¹² Rudolf von Jhering, *Law as a Means to an End* (Isaac Husik tr, Boston Book Co 1913) Vol 1.

¹³ Roscoe Pound, *An Introduction to the Philosophy of Law* (Yale University Press 1922) 99–100.

¹⁴ Dias (n 11) 147.

branch of the sociological school. It studies law as it is in its actual working and effects. It has been summed up by its exponent Llewellyn as 'ferment'. According to Guroitch the neo-realistic school represents a violent reaction against the dominantly theological and moralizing orientation of 'sociological Jurisprudence'¹⁵. Holmes J. the realist considered the law to be a part of the judicial process. He says, "that the prophecies of what the courts will do, in fact, and nothing more pretentious, are what I mean by law."¹⁶

2.2 Social

The term 'social' generally refers to anything related to society or the interactions between individuals within a community.¹⁷ It encompasses various aspects, including interpersonal relationships: how people relate to and interact with one another; community and society: the structures and organizations that define groups of people; social behaviour: the actions and reactions of individuals in social contexts; and social sciences: academic disciplines that study human behaviour and societies. In essence, 'social' pertains to the collective aspects of human life and the dynamics that arise from living in groups.¹⁸

2.3 Social Movement

Charles Tilly¹⁹ defines social movements as a series of contentious performances, displays and campaigns by which ordinary people make collective claims about others. For Tilly, social movements are a major vehicle for ordinary people's participation in public politics. In his classical definition, he considered them as groups that display 'WUNC'-worthiness, unity, numbers and commitment.²⁰ According to Whittier, social movements are neither fixed nor narrowly bounded in space, time, or membership. Instead, they are made up of shifting clusters of organizations, networks, communities, and activist individuals, connected by participation in challenges and collective identities through which participants define the boundaries and significance of their groups.²¹

Mario Diani argues that nearly all definitions share three criteria: "a network of informal interactions between a plurality of individuals, groups and/or organizations, engaged in a political or cultural conflict, based on a shared collective identity."²² Sidney Tarrow defines a social movement as "collective challenges (to elites, authorities, other groups or cultural codes) by people with common purposes and solidarity in sustained interactions with elites, opponents and

¹⁵ Georges Gurvitch, *Sociology of Law* (First published 1942, Routledge & Kegan Paul 1947).

¹⁶ Oliver Wendell Holmes, 'The Path of the Law' (1897) 10 *Harvard Law Review* 457, 461.

¹⁷ Social Structure' (Encyclopedia Britannica, 5 March 2026) <<https://www.britannica.com/topic/social-structure>> accessed 11 March, 2026.

¹⁸ Quora. "What is the definition of Social", available online at <https://www.quora.com/What-is-the-definition-of-social>, accessed 2 April, 2025.

¹⁹ Charles Tilly, "Britain Creates The Social Movement", Paper No.232, March, 1981, 3. Available at: <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/51006/232.pdf?...1> accessed 3 April, 2025; see R. Buettner, and K. Buettner, *A Systematic Literature Review of Twitter Research from a Socio-Political Revolution Perspective*. 49th Annual Hawaii International Conference on System Sciences 2016.

²⁰ Tilly, Charles, *Social Movements, 1768-2004*. (Boulder, Paradigm. 2004) in: Lucy Earle, "Literature Review on the Dynamics of Social Movements in Fragile and Conflict-Affected States", Governance and Social Development Resource Centre (GSDRC) International Development Department, College of Social Sciences University of Birmingham, UK, Issues Paper, 2011, 9.

²¹ Whittier, Nancy, 'Meaning and structure in Social Movements', in D.S. Meyer, *et al* (eds.) *Social Movements: Identity, Culture and the State*, Oxford: Oxford University Press, 2002) 289.

²² Diani, Mario, 'The Concept of Social Movement', (1992) 40(1) *The Sociological Review* 1-25.

authorities”.²³ He specifically distinguishes social movements from political parties and advocacy groups. The sociologists John McCarthy and Mayer Zald define a social movement as “a set of opinions and beliefs in a population which represents preferences for changing some elements of the social structure and/or reward distribution of a society”.²⁴

According to Paul van Seeters and Paul James, defining a social movement entails a few minimal conditions of ‘coming together’: the formation of some kind of collective identity; the development of a shared normative orientation; the sharing of a concern for change of the status quo and the occurrence of moments of practical action that are at least subjectively connected across time addressing this concern for change. Thus, we define a social movement as a form of political association between persons who have at least a minimal sense of themselves as connected to others in common purpose and who come together across an extended period to effect social change in the name of that purpose.²⁵ Generally, a social movement is a collective, organized effort by a large group of people to achieve or resist social, political, economic, or cultural change. These movements are typically driven by a shared set of beliefs or collective identity and aim to address societal issues or challenges. Unlike special interest groups that operate within established systems, social movements often work outside traditional frameworks through protests, demonstrations, or other forms of public action. A social movement is a loosely organized but sustained campaign in support of a social goal, typically either the implementation or the prevention of a change in society’s structure or values. Although social movements differ in size, they are all essentially collective. That is, they result from the more or less spontaneous coming together of people whose relationships are not defined by rules and procedures but who merely share a common outlook on society.²⁶

2.4 Justice

Justice denotes several meanings. First, it means fair and proper administration of laws.²⁷ Social justice is justice that conforms to a moral principle, such as that all people are equal- also termed *justice in rem*. Distributive justice is justice owed by a community to its member, including the fair disbursement of common advantages and sharing of common burdens. Natural justice, which is defined as a moral, as opposed to a legal sense- also termed *justicia naturalis*.²⁸

In analysing the role of law in social Movement and how it is used to attain social justice it is the argument that law plays a dual role in social movements, serving both as a tool for contestation and a potential constraint, while enabling the pursuit of social justice through processes like strategic litigation, rights mobilization, and institutional disruption. Social movements leverage law tactically to publicize injustices, rally support, and secure temporary victories that build momentum for broader change.²⁹ Social movements use litigation and rights-framing to challenge systemic inequalities as seen in movements in different parts of the world.³⁰ Law often reinforces power imbalances,

²³ Sydney Tarrow, *Power in Movement. Social Movements and Contentious Politics*, (1st edn.. Cambridge and New York: Cambridge University Press 1994).

²⁴ J. McCarthy, N.M. Zald, “Resource Mobilization and Social Movements: A Partial Theory”, (1997) 82(6) *The American Journal of Sociology*, 1217–1218.

²⁵ P. James, & P. van Seeters, *Globalization and Politics, Vol. 2: Global Social Movements and Global Civil Society*. (London: Sage Publications. 2014) xi.

²⁶ L.M killian & N.J smelser (eds.) Britannica, “Social Movement”, Updated 10 March, 2025 available online at <https://www.britannica.com/topic/social-movement>, accessed 2nd April, 2025.

²⁷ B.A Garner (ed) “*Black’s Law Dictionary*”, (7th edn, West Group St. Paul. MINN, UAS, 2000) 697.

²⁸ *Ibid*.

²⁹ A.A Akbar, S.M Ashar & J. Simonson, ‘Movement Law’ (2021) 73 *Stanford L Rev* 821, 824, 848.

³⁰ Tehepo Madilingozi ‘NGOs and Social Justice in Africa: There is No Outside the Law: How can Social Movements Use the Law to Bring about Radical Change and Social Justice’, 26th May, 2014.

prompting movements to adopt "movement law" strategies that prioritize solidarity with grassroots organizing over court-centric reform. Movements thus tactically appropriate legal symbols while pursuing counter-hegemonic goal.³¹ Furthermore, law attains social justice when paired with movement experimentation, as in *SERAC v Nigeria*, where the African Commission advanced environmental rights amid Niger Delta activism, holding states accountable despite enforcement gaps. This hybrid approach legal wins energizing communities builds durable change, though full transformation requires ongoing collective struggle beyond courts.³²

3. Theoretical Framework

Legal theories are an essential component of research because they provide a structural framework to analyse, interpret, and evaluate legal phenomena. It helps in understanding the principles underpinning laws and legal systems, offering clarity on how laws function within societal, moral, and philosophical contexts, hence this paper will examine the following legal and thematic theories to see how they give credence to the topic "the role of law in social movement".

3.1 Sociological Theory of Law

There are five schools of jurisprudence: natural law school; analytical school; historical school; sociological school and the realist school. The applicable legal theory to the subject of the role of law in social movement is the sociological theory of law. The sociological school of jurisprudence emerged as the synthesis of various juristic thoughts. The exponents of this school treat law as a social phenomenon. According to them, the law is a social function, an expression of human society concerning the external relations of its members.³³ The exponents of this school lay greater stress on the functional aspect of law rather than its abstract contents. They regard law as a social institution essentially interlinked with their disciplines bearing a direct impact on society.³⁴ Every individual has to observe these rules because he understands that only by following these rules he can realize all his needs. The supporters of the sociological school are of the view that the state does not create the laws but only formulates them so that social unity is preserved and social needs are satisfied. So laws did not come from states but from society. The sanction behind the law is not the force of the state but the awareness on the part of the individual.³⁵

Roscoe Pound, a prominent American legal scholar, significantly influenced the sociological theory of law through his development of sociological jurisprudence. His work transformed the understanding of law by emphasizing its practical application in society and its role as a tool for social engineering.³⁶ Pound conceptualized law as a form of 'social engineering', which involves balancing competing interests within society to achieve stability and progress. He argued that law

<<http://thinkingafricangos.blogspot.com/2014/05/there-is-no-outside-law-how-can-social.html>> accessed 10 March, 2026.

³¹ *Ibid.*

³² Madlingozi, (n 30).

³³ Roscoe Pound, known for his 'Theory of Social Interests' and defining law as a tool for social engineering, Eugen Ehrlich, renowned for the concept of 'living law', which posits that the true law is found in social behavior, not just state-enforced rules, Rudolf von Jhering, regarded as the father of sociological jurisprudence, focusing on law as a means to achieve social ends (purposeful law) and Leon Duguit, known for his theory of "social solidarity," arguing that law should enforce the social interdependence of individuals. See Abhulimhen-Iyoha: Sociological Jurisprudence and its Relevance to Contemporary Society, *International Review of Law and Jurisprudence* (IRLJ) 5 (2) 2023, 35.

³⁴ Abhulimhen-Iyoha, 'Sociological Jurisprudence and its Relevance to Contemporary Society', (2023) 5(2) *International Review of Law and Jurisprudence* (IRLJ) 35-36.

³⁵ A Taiwo and I.F Koni (eds), *Jurisprudence and Legal theory in Nigeria*, (1st edn Lagos: Princeton and Associates Publishing Co. Ltd, 2019) 269.

³⁶ Mukesh Kumar, "Nathan Roscoe Pound and His Contribution to Law", 20 November, 2023, available online at <https://www.tutorialspoint.com/nathan-roscoe-pound-and-his-contribution-to-law>, accessed 31 March, 2025.

should focus on protecting and reconciling individual, public, and social interests. These interests were categorized as private interests, public interests and social interests that involve individuals such as family, property and contract, the state and public resources, social space, health, security and institutional stability.³⁷

This paper argues that the sociological theory of law provides valuable insights into the role of law in social movements, highlighting the complex interplay between legal institutions and social change. Sociological perspectives on law view it not as an isolated system, but as deeply embedded in social structures and processes. In the context of social movements, law can serve as both a catalyst and a constraint for change.

3.2 Critical Legal Theory and Gramscian Hegemony Theory

The critical legal theory and Gramscian hegemony theory are both rooted in the sociological framework. The role of law in social movements is best explained through a synthesis of Max Horkheimer's programmatic paper 'Traditional and Critical Theory'³⁸ and Pierre Bourdieu's sociological framework, which together account for law as both a contested terrain and a tool for emancipatory struggle embedded in social movements.³⁹ These approaches emphasize how legal mobilization intersects with broader societal power dynamics and structural contradictions. Legal victories or defeats are secondary to the broader political impact of shifting power relations, as movements use litigation to expose systemic inequities and renegotiate hegemonic narratives.

Bourdieu's concept of the juridical field posits law as a semi-autonomous arena where actors compete to define legal norms. Legal struggles here are shaped by procedural logic and technical constraints, which can depoliticize original conflicts but also create opportunities for subaltern voices to challenge dominant power structures. For example, marginalized groups must translate grievances into legal arguments, risking co-optation yet gaining a platform to contest hegemonic interpretations. Bourdieu's framework underscores how legal strategies depend on navigating the field's inherent power asymmetries.⁴⁰ Gramsci's theory of hegemony complements this by emphasizing the law's role in sustaining and challenging dominant ideologies.⁴¹ Legal battles are part of a broader war of position, where movements seek to reshape societal consensus. Even when courts rule against movements, litigation can disrupt hegemonic narratives and galvanize public support, as seen in labour and civil rights struggles.⁴²

From the research, it is observed that both theories support the fact that social movements, NGOs and other political actors often mobilise the law for social change. Strategic litigation and collective legal mobilisation can be key instruments to face current political challenges like the climate crisis, human rights violations against refugees or the exploitation of workers along global supply chains. Although these struggles are framed by a societal context and have impacts on the political and

³⁷ Mukesh Kumar, 'Nathan Roscoe Pound and His Contribution to Law' (*TutorialsPoint*, 20 November 2023) <https://www.tutorialspoint.com/nathan-roscoe-pound-and-his-contribution-to-law> accessed 11 March 2026.

³⁸ M. Horkheimer, "Traditional and critical theory", in: Horkheimer M (ed.) *Critical Theory: Selected Essays*. (New York: Continuum, (1975) 188–243.

³⁹ Sonja Buckel *et al*, "Legal Struggles: A Social Theory Perspective on Strategic Litigation and Legal Mobilisation", (2024) 33(1) *Social & Legal Studies*, 21–41.

⁴⁰ P. Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field", (1987) 38(5) *The Hastings Law Journal*, 805–853.

⁴¹ A. Gramsci, *Selections from the Prison Notebooks*. London: Lawrence and Wishart, 'State and Civil Society: The Transition from the War of Manoeuvre (Frontal Attack) to the War of Position', 1971, 243.

⁴² Gramsci's war of maneuver is the physical struggle of frontal attack and defence which stands as a swift and particular event among marginalized resistance groups. War of maneuver is an abrupt assault that erupts the established order of the state and civil society.

juridical fields, the literature about legal mobilization still does not decidedly engage with a social-theory-based perspective on such struggles. By developing the concept of legal struggles, the paper proposes a conceptual framework to analyse both the ambivalence and the emancipatory potential of progressive struggles in the juridical field.⁴³

3.3 Thematic Theories Associated with Social Movement

Apart from the sociological theory of law which is a traditional legal theory other theories that explain the role of law in social movement. The deprivation theory posits that social movements arise from people feeling deprived of something, whether it is resources, rights, or opportunities, leading them to organize and mobilize for change.⁴⁴ The deprivation theory explains that members of society who are deprived of valuable resources or opportunities can be motivated by a sense of injustice. Deprivation theory, often associated with the concept of 'relative deprivation', suggests that social movements emerge when individuals or groups feel they are lacking something they believe they should have, or that others possess.⁴⁵ The Mass society theory on the other hand, posits that modern societies, shaped by industrialization and social changes, lead to individual isolation and alienation, making people susceptible to extremist ideologies and movements.⁴⁶ However, different theorists and sociologists have formulated different versions of this theory. Mass society is, a concept used to characterize modern society as homogenized but also disaggregated because it is composed of atomized individuals.⁴⁷ Conversely, the structural-strain theory argue that movement emerge from societal pressures and strains, such as inequality or lack of opportunities.⁴⁸ The theory proposes that pressure derived from social factors, such as lack of income or lack of quality education, drives individuals to commit crime. Discontent usually requires a catalyst (often a specific event) to turn the pressure into a social movement.⁴⁹

4. Law as a Resource for Social Movement

Law serves as a critical resource for social movements by providing mechanisms to challenge institutional power and advocate for rights. Key strategies include: litigation, legislative and policy advocacy, administrative advocacy, social movement, protest and special change.

a) Litigation

Social movements often use courts to advance their goals. For example, the Civil Rights Movement utilized strategic litigation led by the NAACP Legal Defense Fund under Thurgood Marshall to dismantle racial segregation through landmark cases like *Brown v. Board of Education*.⁵⁰ Lawyers seeking to implement the goals of social movements (social movement lawyers) use litigation,

⁴³ Gramsci, (n 41).

⁴⁴ W.G Runciman, *Relative Deprivation and Social Justice: A Study of Attitudes to Social Inequality in Twentieth-Century England*. (London: Routledge & Kegan Paul, 1966). See also, D.E. Morrison, 'Some Notes Toward Theory on Relative Deprivation, Social Movements, and Social Change', (1971) 14(5) *American Behavioral Scientist*, 675–690.

⁴⁵ "Deprivation Theory", available online at <https://study.com/academy/lesson/social-movement-theories-and-motives.html>, accessed 2nd April, 2025.

⁴⁶ Kornhauser, William. *The Politics of Mass Society*. Glencoe, IL: Free Press, 1959, 33. 43 47.

⁴⁷ Andre Munro, 'Mass Movement', available online at: <https://www.britannica.com/topic/mass-society>, accessed 2 April, 2025.

⁴⁸ R.K. Merton, 'Social Structure and Anomie' (1933) 3(5) *American Sociological Review*, 672–682; R.K. Merton, *Social Theory and Social Structure*, (Free Press. (Chapter 4) 131–160.

⁴⁹ Britannica, Sociology, 'Strain Theory', available at: <https://www.britannica.com/topic/strain-theory-sociology>, accessed 3rd April, 2025.

⁵⁰ (1953) 347 U.S. 483. See Harold A. McDougall, 'Social Movements Law and Implementation: A Clinical Dimension for the New Legal Process', (1989) 75 *Cornell L. Rev.* 83.

legislation, and administrative advocacy to get discrete legal responses from the judicial, legislative, and regulatory branches of government, respectively.⁵¹ *Brown's Case*, fundamentally transformed litigation into a strategic tool for social movements by overturning racial segregation in public schools and creating legal and cultural ripple effects. The unanimous Supreme Court decision declared state-sponsored segregation unconstitutional under the Fourteenth Amendment, rejecting the “separate but equal” doctrine from *Plessy v. Ferguson*,⁵² This ruling not only catalysed the civil rights movement but also established litigation as a viable pathway for challenging systemic inequality across other social causes.

b) Legislative and policy advocacy around the World

Movements engage with legislative bodies to enact laws that reflect their demands. Indigenous land rights movements in Australia, such as the Gurindji people's Wave Hill Walk-Off, successfully pressured governments to return ancestral lands.⁵³ It is important to note that rights are hard won and easily lost and fortunately, the world is full of determined people ready to stand up, organise, and take collective action. There are lots of people-powered social change movements that have taken place in the world.⁵⁴ These are:

- i) The Black Lives Matter with the killing of George Floyd by a US police officer in May 2020, the Black Lives Matter movement is an important one to support right now.⁵⁵
- ii) One girl with a protest sign outside Sweden's parliament every Friday inspired a worldwide movement in less than one year. The Schools Strike movement (also known as Fridays for Future) wants politicians to act now on the climate crisis and indigenous land Rights.
- iii) In 1963, the Yolngu people from Yirrkala in Arnhem Land, presented parliament with the Yirrkala bark petitions, protesting to have their land and their rights returned.⁵⁶
- iv) The girls' right to education that led to the Malala Youfaszai grew in the Swat Valley in Pakistan at a time when the Taliban had banned girls from attending school. Her peaceful promotion of girl's education made her a target; the Taliban shot her on a school bus.⁵⁷
- v) The movement against Apartheid, where South Africa's apartheid policy of the mid-20th century sanctioned racial segregation. It barred non-white South Africans from political and economic equality. People held strikes and protests against their government's apartheid policy for decades.⁵⁸ This, along with economic sanctions, led to the end of apartheid in the 90s. Nelson Mandela played a central role in the movement and spent 27

⁵¹ L. C Scott, 'Movement Lawyering', (2017) *U. Ill. L. Rev.* 1645, 1656.

⁵² *Plessy v. Ferguson*, 163 U.S. 537 (1896).

⁵³ Petition to Lord Casey, Governor-General of Australia from Gurindji spokesmen (Vincent Lingiari, Lupngaiari, Pincher Nyurrmiarri, Donald Nangiari), April 1967.

⁵⁴ Amnesty International, "9 Powerful Social Change Movements that You Need to Know About", Available at <https://www.amnesty.org.au/9-powerful-social-change-movements-you-need-to-know-about/>, accessed 8th March, 2026

⁵⁵ Black Lives Matter Global Network Foundation. 'About'. Black Lives Matter". <https://blacklivesmatter.com/about/> Accessed March 12, 2026.

⁵⁶ Petition of Certain People of Yirrkala Relating to the Excision of Land from the Aboriginal Reserve in Arnhem Land (Presented to the House of Representatives on 14 August 1963 1-2.

⁵⁷ M. Yousafzai., & C. Lamb, *I Am Malala: The Girl Who Stood Up for Education and Was Shot by the Taliban*. Little, Brown and Company, 2013. Chapters 18-19.

⁵⁸ The Freedom Charter, adopted June 25–26, 1955, Kliptown, South Africa.

years in prison for it. After the dismantling of apartheid, Mandela became South Africa's first democratically elected leader.⁵⁹

- vi) The Hashtag "Me Too" where the American activist Tarana Burke sparked the "Me Too" movement in 2006. She wanted to break the silence surrounding sexual assault, rape and harassment, and empower women through empathy and strength in numbers.⁶⁰
- vii) The amendment of the federal Marriage Act on 9 December 2017 gave same-sex couples the same right to marry as heterosexual couples. It was the culmination of decades of campaigning by the lesbian, gay, bisexual, transgender, intersex, queer, and asexual (LGBTIQA+) communities and their supporters. The passing of the Bill in the House of Representatives was seen as a watershed moment for equal rights in Australia. The Marriage Equality movement that happened on 9 December 2017, the right to marry in Australia was no longer determined by sex or gender. Hurray! Equality Australia estimates that 15,600 people volunteered for the Yes campaign. The marriage equality movement that happened after decades of work raised understanding and acceptance.⁶¹ Prime Minister Malcolm Turnbull addressing the House of Representatives, 7 December 2017: He said "What a day. What a day for love, for equality, for respect. Australia has done it. Every Australian had their say and they said, 'It's fair. Get on with it,' and the parliament has got on with it and we have voted today for equality, for love".⁶²
- viii) On 24 June, 1978 a small group of gay and lesbian people, called the Gay Solidarity Group, organised a day of events in Sydney. They wanted to promote gay and lesbian culture and protest against the discrimination they experienced in their daily lives. Even though the daytime march and night-time street parade were peaceful, police responded with violence and arrests. This brought national attention and helped to make the parade an annual Sydney event. In 1978, around 500 people marched in Sydney to protest inequality for LGBTIQI+ people. Supporters would go on to hold this event every year, becoming the Sydney Mardi Gras.⁶³
- ix) The Women's Right to Drive involving determined, peaceful protesters pushed the Saudi Arabian government to overturn its ban on women driving. The Saudi authorities arrested many for their peaceful protests. The authorities overturned the ban in June 2018. But it came at a cost; they again imprisoned some of the campaigners who had worked so hard to win the right to drive.⁶⁴

⁵⁹ *Ibid.*

⁶⁰ Tarana Burke is a civil rights activist who originally founded the "Me Too" movement. In 2006, Burke began using the phrase "Me Too" on social media to raise awareness of the pervasiveness of sexual abuse and assault in society. It later became a global phenomenon that raised awareness about sexual harassment, abuse, and assault in society in 2017. Time Magazine named Burke, among a group of other prominent activists dubbed "the silence breakers", as the Time Person of the Year for 2017, available at: [#BlackHistoryMonth](http://bit.ly/2Hwlxwz), U.S Mission in Nigeria February, 2020.

⁶¹ Equality Campaign, 'Australia said YES!' (The Equality Campaign, 2017) <https://voteyes.org.au/> accessed 12 March, 2026

⁶² *Ibid.*

⁶³ Eva Rinaldi, National Museum Australia, "A Civil Rights Milestone 1978: First Gay Mardi Gras March" sydney, <https://digital-classroom.nma.gov.au/defining-moments/first-gay-mardi-gras> accessed 12 March, 2016

⁶⁴ *Ibid.*

c) Administrative advocacy and role of law in social movements in Nigeria

Lawyers working with movements coordinate actions across judicial, legislative, and regulatory branches to implement policies effectively. Administrative advocacy, in the context of Nigerian social movements, intersects with the role of law as a tool for governance, justice, and social change.⁶⁵ However, skepticism toward the judicial system and reliance on mass protests highlight challenges in leveraging administrative law effectively. From a contextual perspective, administrative law in Nigeria governs the functions and decision-making processes of public administrative bodies. It is rooted in constitutional provisions and legislative frameworks, aiming to ensure accountability, justice, and good governance.⁶⁶ Roger Bird sees it as that sub-ordinate branch of constitutional law consisting of the body of rules that govern the detailed exercise of executive functions by the officers or public authorities to whom they are entrusted by the Constitution.⁶⁷ Administrative advocacy involves using these legal mechanisms to address grievances or influence policy changes. However, the effectiveness of administrative law is often undermined by systemic issues such as judicial corruption, disregard for court orders by government officials, and weak enforcement mechanisms.⁶⁸

d) Social movements, protests and social change in Nigeria

According to Ojedokun, mass protests and public demonstrations by civil society organisations and social activist groups have been the hallmarks of Nigeria since it gained independence from the British Colonial master in 1960.⁶⁹ He stated that a series of public protests organised and led by labour unions, youth movements and social activist groups have been witnessed.⁷⁰ These popular struggles have often been motivated by the exploitative, hegemonic and dominant character of the state, environmental degradation, high rate of unemployment, rampant poverty, corruption, repressive military dictatorship, deprivation, exclusion, marginalisation, denial and suppression of basic rights and freedom.⁷¹

Over the years, social movements' growing lack of confidence in the Nigerian judicial system has precipitated a conspicuous change in their preferred approach to pressing home their demands. Regardless of their origin, structure, composition and objectives, a common denominator among the contemporary social activist groups in Nigeria is their growing preference for mass protest as against exploring legal options for actualising their objectives. Indeed, the prevailing situation across the nation indicates that both traditional and online social movements are increasingly taking their grievance(s) to the street in the form of mass protests, mass demonstrations, solidarity

⁶⁵ T.G Apata, & M. Abubakar, "Social Movements and Human Rights Advocacy in Nigeria." *International Institute of Academic Research and Development (IIARD) Journal of Law and Governance in Africa*, (2013) 8(1), 1-15.

⁶⁶ Learn Law at Your Own Pace, "Introduction to Administrative law", Available online at: <https://www.learnnigerianlaw.com/learn/administrative-law/introduction> accessed 30 March, 2025.

⁶⁷ R. Bird, *Osborn's concise Law Dictionary*, (7th edn, London: Sweet and Maxwell, 1983), 15 in: A.A Borokini & M.A Olong, *Borokini & Olong on Administrative Law in Nigeria*, (1st edn, Oluwole Printing Co. Ilorin, 2006) 1.

⁶⁸ *Ibid.*

⁶⁹ Par Usman Adekunle Ojedokun, 'Social Movements' Skepticism in the Nigerian Judicial System and the Rise of Mass Protest as a Strategic Alternative to Legal Action', in *e-legal, Revue de droit et de criminologie de l'ULB*, Volume n°5, février 2021, 1-16.

⁷⁰ S. Hari, 'The Evolution of Social Protest in Nigeria: The Role of Social Media in the "Occupy Nigeria" Protest', (2014) 3(9) *International Journal of Humanities and Social Science Incentives*, 33-39.

⁷¹ F. Aborisade, *May Day: Why the Right to Protest Should be Sacred*, London, Commonwealth Advisory Bureau, 2012; D. Osiki, 'Personalities and Labour Activism in Nigeria: The Contributions of Michael Imuodu and Adams Oshiomhole', (2009) 2(2) *Information, Society and Justice*, 153-164. See also C. Obi, *Environmental Movements in Sub-Saharan Africa. A Political Ecology of Power and Conflict*, Geneva, UNRISD, 2005; See A. Abimbola, 'Pressure Groups and the Democratic Process in Nigeria (1979-1993)', (2002) 11(1) *Nordic Journal of African Studies*, 38-47.

marches, public campaigns and rallies.⁷² Even though social activist groups in Nigeria have always been vocal in matters of public affairs, their activities have become remarkably exponential since the nation transitioned to democratic rule in 1999. Indeed, mass protest is fast constituting a permanent feature and everyday reality of Nigeria's fourth republic as it is increasingly being adopted as a strategic means and result-oriented option by social movements that are becoming less enthusiastic about using the law to press home their demand.⁷³

A major reason that is responsible for Nigeria's social movements as instruments for facilitating social change is the adoption of mass protests rather than exploring legal options is the frequent disregard for court orders by democratically elected officials.⁷⁴ Even though Nigeria has transitioned from military rule to democracy since 1999, certain actions taken by some of the civilian administrators at different points in time indicate that they are ill-disposed towards the activities of social activist groups and civil society organisations. Nigeria operates a federal system of government with three distinct organs of government made up of the executive, legislature and judiciary. Ideally, these constituents are constitutionally empowered to oversee different clearly defined areas of governance. However, in reality, the executive arm is the most powerful. Hence, its officials are often overbearing and frequently arm-twist the other two organs of government.⁷⁵

Social movements in Nigeria increasingly prefer mass protests over legal channels due to deep-seated skepticism about the judiciary. Factors driving this skepticism include: the legacy of Military rule involving Nigeria's prolonged history of military governance has weakened trust in democratic institutions, including the judiciary, judicial corruption which involves the allegations of pervasive corruption within the judiciary eroding public confidence in legal redress mechanisms, the disregard for court orders whereby the executive branch's frequent non-compliance with judicial decisions diminishes the judiciary's authority and results oriented mass protests which are perceived as more effective in attracting attention and achieving tangible outcomes compared to lengthy legal processes.⁷⁶

Therefore, the realisation of the fact that mass protest can be more result oriented on some matters compared to seeking legal action accounts for Nigeria's social activist groups and civil society organisations' preference for it as a strategic alternative to bringing about a desired change in public affairs. For instance, the Occupy Nigeria Movement's protest against the Federal Government's fuel subsidy removal in 2011⁷⁷ and the 'Bring Back Our Girls Movement' protesting the abduction of 276 secondary school girls in Chibok, Borno State are examples of social movements that have successfully utilised mass protests to gain both national and international attention. Earle has also observed that social activists and their organisations often link their demands to international policy debates and laws or agreements to benefit and gain greater legitimacy. Moreover, large protests

⁷² D. Kayode-Adedeji and I. Mohammed I, 'Nigerian Students to Begin Strike in Petrol Price, Stamp Duty, Electricity Tariff Next Tuesday', *Sahara Reporters* (4 September 2020); D. Kayode-Adedeji, and I. Mohammed., 'Killings: Mass Protest by Christians Across Nigeria', *Premium Times* (23 May 2018); Davies Wande, "Attacks on 'Resume or Resign' Protesters is Height of Dictatorship – Fayose", *Nigerian Tribune* (16 August 2017); D. Kayode-Adedeji and I. Mohammed I "Breaking: Resume or Resign Protest Turns Sour as Police Tear Gas Groups", *Vanguard* (8 August 2017); See generally U. Ojedokun, 'ICT and Online Social Movements for Good Governance in Nigeria', (2016) 12(1) *The Journal of Community Informatics*, 7–20. See also Usman Adekunle Ojedokun, 'Social Movements: Skepticism in the Nigerian Judicial System and the Rise of Mass Protest as a Strategic Alternative to Legal Action', (2021) 5 *e-legal, Revue de droit et de criminologie de l'ULB*, 1-16 at 10.

⁷³ Ojedokun, (n 72).

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*, 18.

⁷⁶ U.A Ojedokun, (n 72). See also F. O. Eme, 'Social Movements' Skepticism in the Nigerian Judicial System and the Rise of Mass Protest as a Strategic Alternative to Legal Action", *ResearchGate*, 2021 (abstract).

⁷⁷ Ojedokun (n 72)

also have a greater impact on their targets because of their ability to disrupt their target's routine activities and grab the attention of a wider public audience.⁷⁸ The *End SARs Movement* opposing police brutality illustrates how mass protests have been used to achieve national and international visibility for critical issues.⁷⁹

5. Law as a Constraint to Social Movement

While law can be mobilized for change, it often reinforces the *status quo*. Legal systems are inherently conservative, prioritizing stability over transformation. Scholars argue that law frequently supports hierarchical relationships and institutional conventions, making it difficult for movements to achieve substantive reforms.⁸⁰ Law constrains social movements through institutional rigidity, systemic biases, and the diversion of resources toward legal compliance rather than transformative action. While movements often use legal strategies to challenge power structures, the law itself can function as a tool of repression, delay, and co-optation in several ways.

a) Structural barriers, biases and power maintenance

Issues like standing, justiciability, and access to resources limit the ability of marginalized groups to use legal systems effectively.⁸¹ The legal system is designed to protect existing power hierarchies, prioritizing corporate interests (e.g., Amazon's shareholders over workers and state actors (e.g., prosecutors over incarcerated populations)). This creates inherent barriers for movements seeking systemic change.⁸² For example economic inequality and racial injustice. Legal frameworks often naturalize corporate dominance, making challenges to wealth concentration difficult also anti-black legal norms, such as pre-trial detention practices, enforce racialized policing, despite movements like Black Lives Matter exposing their harms.⁸³

To shed light on the above position of the role of law in social movements and its constraints, Kerper recognized the advantages of law in fostering social control and identified four major limitations of the law. First, she noted, the law often cannot gain community support without the support of other social institutions.⁸⁴ (Consider, for example, the United States Supreme Court (Court) case of *Brown v. Board of Education of Topeka, Kansas*, 347 U.S. 483 (1954), which declared racially segregated schools unconstitutional. The decision was largely unpopular in the southern states, and many had decided to not follow the Court's holding. Ultimately, the Court had

⁷⁸ J. Luders, 'The Economics of Movement Success: Business Responses to Civil Rights Mobilization', (2006) 111(4) *American Journal of Sociology*, 963–998; See J. Earl, S.A Soule, and J.D McCarthy, 'Protest Under Fire? Explaining the Policing of Protest', (2003) 68(4) *American Sociological Review*, 581–606.

⁷⁹ Lucy Earle, "Literature Review on the Dynamics of Social Movements in Fragile and Conflict-Affected States", Governance and Social Development Resource Centre (GSDRC) International Development Department, College of Social Sciences University of Birmingham, UK, Issues Paper, 2011, 15.

⁸⁰ Duncan Kennedy, 'The Stages of the Decline of the Public/Private Distinction', (1982) 130(6) *University of Pennsylvania Law Review*, 1349–1357, 1354.

⁸¹ Vladyslav Teremetskyi, et al, 'Access to Justice and Legal Aid for Vulnerable Groups: New Challenges Caused by the Covid-19 Pandemic', (2021) 24 *Journal of Legal, Ethical and Regulatory Issues*, 65. See also Chuks Okpaluba, "Justiciability and standing to challenge legislation in the Commonwealth: a tale of the traditionalist and judicial activist approaches", (2003) 32 *CILSA* 26–64.

⁸² J Beqiraj and L McNamara, *International Access to Justice: Barriers and Solutions* (Bingham Centre for the Rule of Law Report 02/2014), International Bar Association, October 2014, 9.

⁸³ J. Simeonson, S. Asher, & A.A. Akbar, 'What Movements Do to Law', (2002) *Boston Review*, 26 April, available at <https://www.bostonreview.net/articles/what-movements-do-to-law/>, accessed 2 April, 2025. See Lore Rutz-Burri, 'Introduction to the American Criminal Justice System: Functions and Limitations of Law', available at <<https://openoregon.pressbooks.pub/ccj230/chapter/8-1-functions-and-limitations-of-law/>>, accessed 3rd April, 2025.

⁸⁴ H.B Kerper, *Introduction to the criminal justice system* (2nd edn, West Publishing Company, 1979) 2.

to call in the National Guard to enforce its decision requiring schools to be integrated. Second, even with community support, the law cannot compel certain types of conduct contrary to human nature. Third, the law's resolution of disputes is dependent upon a complicated and expensive fact-finding process. Finally, the law changes slowly.⁸⁵

b) Rigidity and delayed change

This involves slow adaptation involving situations where courts and legislatures often lag behind grassroots activism, as seen in the decades-long delays in addressing police brutality despite sustained protests and inflexible Rules whereby doctrines like "imminent threat" requirements in self-defence laws fail to protect domestic violence survivors, illustrating legal frameworks' mismatch with lived realities.⁸⁶ Again, the law's reliance on precedent and formal procedures slows responses to movement demand

c) Co-optation risk

Movements may face dilution of their goals when engaging with formal legal processes that prioritize incremental change over radical transformation. Social movements often face the risk of co-optation when engaging with formal legal processes, as these mechanisms tend to prioritize incremental change over radical transformation. Co-optation occurs when power holders absorb or neutralize movements' goals, ideas or members, diluting their transformative potential. Co-optation involves power holders appropriating a movement's people or ideas to weaken its impact. This can include buying off moderate factions within the movement, creating internal divisions, or altering the movement's demands to align with institutional priorities.⁸⁷ For example, in Zimbabwe's Marange region, corporate actors co-opted movement leaders to dissuade protests against human rights violations. Similarly, in Brazil, housing movements institutionalized their efforts, leading to changes in objectives and a reduction in autonomy.⁸⁸ Social reform groups that turn to courts often achieve moderate success but rarely disrupt the foundational political or economic structures. Legal remedies may legitimize movements but also constrain their ability to pursue broader systemic change.⁸⁹

6. Law as a Catalyst for Social Movement

Law plays a critical role in fostering and advancing social movements by providing a framework for activism, legitimizing demands, and facilitating institutional change. Despite its constraints, law can catalyze broader societal shifts by legitimizing movement demands and creating new institutional norms.⁹⁰ Law serves as a tool for mobilisation as social movements often use legal frameworks to mobilize constituencies and challenge existing power structures. Legal mobilization enables activists to articulate grievances in terms of rights, creating a shared narrative that

⁸⁵ *Ibid.*

⁸⁶ M. McCann, 'Law, Litigation and the Politics of Social Movements', (2021) 5 *e-legal Journal of Law and Criminology*, available at <https://e-legal.ulb.be/volume-n05/la-mobilisation-du-droit-par-les-mouvements-sociaux-et-la-societe-civile/law-litigation-and-the-politics-of-social-movements>, accessed 4 April, 2025.

⁸⁷ F. Maguwu and Gd. Dayley, 'How Can Movements Effectively Counter Co-Optation?', *Minds of the Movement*, available online at https://www.nonviolent-conflict.org/blog_post/can-movements-effectively-counter-co-optation/, accessed 3 April, 2025.

⁸⁸ *Ibid.* See V. Lima, 'The Institutionalisation of Social Movements: Co-Optation and Democratic Policy-Making' (2020) *Political Studies Review*, 3-5.

⁸⁹ *Ibid.* See also J.F. Handler, 'Social Movements and the Legal System - A Theory of Law Reform and Social Change', NCJRS Virtual library, 1978.

⁹⁰ Michael W. McCann's *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization* (1994) 288-290, 301.

galvanizes collective action. For example, litigation efforts such as *Brown v. Board of Education*⁹¹ and *Roe v. Wade*⁹² have historically provided platforms for movements advocating racial equality and reproductive rights, respectively.⁹³

a) Demosprudence

Demosprudence, a term coined by legal scholars Lani Guinier and Gerald Torres, describes a legal philosophy that emphasizes the interplay between formal lawmaking institutions and grassroots social movements.⁹⁴ It focuses on how mobilized constituencies ordinary people acting collectively redefine justice through their actions, influencing the creation, interpretation, and evolution of legal meaning. This concept challenges traditional notions of jurisprudence by incorporating the dynamic contributions of social movements to democratic governance and legal processes.⁹⁵ In a classical case, Torres points to *Brown v. Board of Education*⁹⁶ as an example where cause lawyering resulted in legal change that failed to produce real social change. In his view, “the meaning of Brown was found in the capacity for individuals to exist rather than in a more profound redistribution of resources for communities”.⁹⁷ The lesson he draws from that experience “is the need to link culture shifting with democratic accountability that gives poor people and communities of colour (not just individual people of colour) voice, choice and power”.⁹⁸ In another case, Guinier highlighted oral dissents in the U.S. Supreme Court as demosprudential practices that invite public engagement to challenge judicial decisions. Justice Ruth Bader Ginsburg's dissent in *Ledbetter v. Goodyear Tire and Rubber Co.*⁹⁹ is an example where she used her dissent to rally public discourse around gender pay equity. Additionally, participatory law scholarship aligns with demosprudence by making legal processes more accessible to non-lawyers, encouraging broader societal participation in shaping legal norms.¹⁰⁰ In essence, demosprudence bridges the gap between formal legal systems and grassroots activism, redefining how justice is understood and implemented in democratic societies. The constraints of law thus, operate through both its substantive rules and its procedural frameworks, which movements must navigate or circumvent to advance transformative justice.

⁹¹ Supreme Court of the United States. (1953). U.S. Reports: *Brown v. Board of Education*, 347 U.S. 483. See Harold A. McDougall, ‘Social Movements Law and Implementation: A Clinical Dimension for the New Legal Process’, (1989) 75 *Cornell L. Rev.* 83.

⁹² 410 U.S. 113 (1973). In the landmark 1973 case *Roe v. Wade*, the Supreme Court ruled that the Constitution protects a woman's right to choose an abortion, based on an implied right to privacy under the Fourteenth Amendment, but this right is not absolute and can be regulated by the state, particularly after fetal viability. Legal case in which the U.S. Supreme Court on January 22, 1973, ruled (7-2) that unduly restrictive state regulation of abortion is unconstitutional. In a majority opinion written by Justice Harry A. Blackmun, the Court held that a set of Texas statutes criminalizing abortion in most instances violated a constitutional right to privacy, which it found to be implicit in the liberty guarantee of the due process clause of the Fourteenth Amendment (“...nor shall any state deprive any person of life, liberty, or property, without due process of law”). *Roe v. Wade* was overturned by the Supreme Court in 2022.

⁹³ Michael McCann, ‘Law and Social Movements: Contemporary Perspective’, (2006) 2(1) *Annual Reviews of Law and Social Science*, 17-38.

⁹⁴ Lani Guinier and Gerald Torres is presented in their article, *Changing the Wind: Notes Toward a Demosprudence of Law and Social Movements*, with core definitions located on pages 2749–2750.

⁹⁵ Brian Ray, ‘Demosprudence in Comparative Perspective’, (2011) 47 *Stanford Journal of International Law*, 111-117.

⁹⁶ 347 U.S. 483 (1954).

⁹⁷ Gerald Torres, ‘Legal Change’, (2007) 55 *Clev. St. L. Rev.* 135, 143.

⁹⁸ *Ibid.*

⁹⁹ 550 U.S. 618 (2007), *Ledbetter*, 127 S.Ct. at 2178 (Ginsburg, J., dissenting).

¹⁰⁰ Kempis Songster, Rachel López & Gerald Torre. ‘Participatory Law Scholarship as Demosprudence’, (2024) 110 *Virginia Law Review Online*, 298-321.

b) Legal mobilisation frameworks

According to Lisa Vanhala, legal mobilisation in its narrowest sense, may refer to high-profile litigation efforts for (or, arguably, against) social change or more broadly, the term legal mobilisation has been used to describe any type of process by which an individual or collective actors invoke legal norms, discourse, or symbols to influence policy or behaviour.¹⁰¹ As per Frances Kahen Zemans, the legal mobilisation is 'a desire or want, which is translated into a demand as an assertion of one's rights'.¹⁰²

These frameworks highlight how movements strategically use the law to challenge institutional arrangements and reconstitute power dynamics. Legal mobilisation frameworks provide important insights into how law can catalyse social movements. These frameworks examine how social actors strategically use legal tools and processes to advance their goals and challenge existing power structures. Legal mobilisation refers to the process by which individuals or groups invoke legal norms, discourse, or symbols to influence policy or behaviour. It encompasses both high-profile litigation efforts and broader uses of legal mechanisms to drive social change. Mobilisation involves articulating social or political demands as assertions of legal rights. This includes litigation, but also other engagements with formal and informal justice systems. Legal mobilisation is often employed by disadvantaged people to contest unfair distributions of power and resources.¹⁰³

7. Law and Social Movements in Nigeria

Several historical and contemporary examples illustrate the interplay between law and social movements. Sociological jurisprudence emphasizes that laws must reflect societal values and culture to be effective. In Nigeria, the disconnect between legal positivism (laws imposed by the state) and indigenous cultural values has often fuelled social movements advocating for restructuring and better governance.¹⁰⁴ The law has significantly influenced social movements in Nigeria, shaping their development, objectives, and strategies hereunder are some ways through which the legal framework has impacted social movements in Nigeria.¹⁰⁵

Movements like the call for restructuring Nigeria's political arrangement stem from dissatisfaction with laws perceived as elitist or alien to the common people's values. This highlights the need for laws rooted in societal norms to prevent discontent and drive positive change.¹⁰⁶ This has led to the creation of regional development agencies for the six geo-political zones in Nigeria and the establishment of the Ministry of Regional Development Agencies with a substantive Minister to oversee the affairs of these agencies.

Social movements have also pushed for legal activism to make socio-economic rights enforceable, as these rights are currently non-justiciable under Nigeria's constitution. Activists argue for radical

¹⁰¹ Vanhala, Lisa, *Legal Mobilization* (Political Science. Oxford University Pres, 2011).

¹⁰² Zemans, Frances, 'Legal Mobilization: The Neglected Role of the Law in the Political System', (1983) 77(3) *The American Political Science Review*, 690–703.

¹⁰³ Pilar Domingo and Tam O'Neil, 'The Politics of Legal Empowerment Legal Mobilisation Strategies and Implications for Development', (Shaping Policy for Development, June 2014), 4.

¹⁰⁴ S.OI biyemi, 'A Defense of the Contemporary Relevance of Legal Positivism Against Its Critics', (2021) *Gombe Journal of General Studies* 1-3.

¹⁰⁵ Joshua Igonoh, "Law and the Society in the 21st Century: Exploring the Relevance of Sociological Jurisprudence in Contemporary Nigeria", (2019/2020) *Benue State University Law Journal*. 533, 545

¹⁰⁶ *Ibid*.

judicial interpretations to empower citizens and ensure accountability in governance.¹⁰⁷ Legal activism has also influenced civil society participation in development processes, encouraging grassroots involvement in shaping policies that address poverty and inequality.¹⁰⁸

Women's rights movements in Nigeria have leveraged legal challenges to discriminatory laws. For instance, courts have declared certain provisions of the Police Act unconstitutional, reflecting progress driven by activism against gender discrimination. The deepening of democracy has enabled courts to become more activist, supporting social movements advocating for gender equality and fair treatment under the law.¹⁰⁹

From the perspective of the human rights movement, laws such as the Same-Sex Marriage Prohibition Act have sparked social movements advocating for LGBTQ+ rights¹¹⁰. While these laws have legitimized abuses against LGBTQ+ individuals, they have also galvanized human rights groups to challenge discriminatory practices and demand reforms. Similarly, movements addressing mental health rights have emerged due to outdated laws like the Lunacy Act, which perpetuated harmful practices. The recent Mental Health Bill represents progress influenced by advocacy.¹¹¹

In terms of Legal empowerment and awareness, social movements have emphasized legal awareness as a tool for empowerment, particularly among marginalized groups. Initiatives promoting access to justice aim to reduce poverty by enabling citizens to understand and assert their legal rights. Legal empowerment strategies include *pro bono* services and alternative dispute resolution mechanisms accessible to all citizens, fostering inclusive participation in governance processes.¹¹²

8. Relevance to United Nations Sustainable Development Goals, 2015

This paper is relevant to the United Nations Sustainable Development Goals because it examines how legal frameworks interact with activism to drive societal change, addressing grievances, mobilizing marginalized groups, and overcoming barriers like access to justice. Social movements, empowered by law, catalyze change across SDGs like SDG 5 (gender equality) by aiding women's rights movements and SDG 10 (reduced inequalities) through anti-discrimination advocacy, environmental justice (SDG 13) and poverty reduction (SDG 1), turning aspirations into enforceable reforms via coalitions and policy shifts. Legal strategies in social movements further assist in dismantling barriers for vulnerable groups, thereby fostering inclusive progress. This underscores law's dual role as tool and terrain for sustainable development.¹¹³

¹⁰⁷ Mamman Lawan, 'Law and Development in Nigeria: A Need for Activism', (2011) 55(1) *Journal of African Law*, 59 – 85.

¹⁰⁸ A. Adeniyi, 'Increasing Legal Awareness in Nigeria for Poverty Reduction', *Worldbank.org* Blogs, *Nasikiliza*, 8th February, 2019, available on <https://blogs.worldbank.org/en/nasikiliza/increasing-legal-awareness-in-nigeria-for-poverty-reduction>, accessed 4th April, 2025.

¹⁰⁹ E.O. Ekhaton, 'Women and the Law in Nigeria: A Reappraisal', (2015) 16(2) *Journal of International Women's Studies*, 285-296, 285-286.

¹¹⁰ Human Rights Watch, "*Tell Me Where I Can Be Safe*": *The Impact of Nigeria's Same-Sex Marriage (Prohibition) Act* (2016) 1–4.

¹¹¹ Human Rights Watch, 'Nigeria: Events of 2023' World report 2024, available on <https://www.hrw.org/world-report/2024/country-chapters/nigeria>, accessed 15th April, 2025.

¹¹² Adeniyi, (n 108).

¹¹³ UN Resolution adopted by the General Assembly on 25 September 2015, 70/1. Transforming our world: The 2030 Agenda for Sustainable Development. The Sustainable Development Goals (SDGs) provide a framework for global development efforts and also provide direction for governments (UN, 2015).<<https://docs.un.org/en/A/RES/70/1>> accessed 17th April, 2025.

9. Conclusion

The role of law in social movements is dynamic and contingent on context. While legal systems can constrain efforts toward justice, they also provide powerful tools for advocacy and institutional change. By strategically navigating these complexities, social movements have reshaped societal norms and expanded rights across diverse domains using different strategies that helped achieve social justice for the society. Future research should explore how movements can better integrate legal strategies with broader political and cultural campaigns for equity and justice.