RECEDING REPUTATION OF THE LEGAL PROFESSION IN NIGERIA: TAKING STOCK AND MOVING FORWARD

By

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Abstract

The Legal Profession in Nigeria has come under public scrutiny in recent times due to the changed and changing nuisances in society, nonetheless, the profession being a conservative one, refused to adapt to the move. The effect has been the receding reputation of the profession in Nigeria. Therefore, the paper argued that the legal profession, particularly members of the judicial arm of government must key into society's perceptions by resolving issues based on merit, rather than technicalities. Most Nigerians are not educated in the ordinary letters of the law; however, they intelligently observe proceedings to see positive outcomes. The work adopted the doctrinal method of academic research which comprises both primary and secondary sources. The work advanced the view that public perception is a key element to the advancement of every democracy and that the legal profession is the leading part of the human calling that has the potential to either sustain or destroy democracy. The work recommended that the profession must self-regulate itself to regain the public confidence reposed in members of the profession. It also called for the recruitment of intellectually philosophical justices who should have acquired postgraduate degrees before their elevation to the higher bench.

Keywords: *Legal Profession, Nigeria, Receding, Reputation*

Introduction

The legal profession right from its origin has always been respectable, noble, and honourable. At its development in England when the society was stratified, members of the profession were exclusively from the upper class of the society, particularly from the generations of Kings, Knights, Bishops, Nobles, and Lords. Chief Richard Akinjide, also alluded to the fact that the legal profession is not a poor man's profession, when he said that in its country of origin, it was the case that you must have come from either the upper class or upper middle class to be a barrister. The cultures that exist in the profession today lend credence to the fact that the fathers of the profession wanted the calling to be preserved for the honourable and not for hungry men. This is as a result of the relevance of the profession to the sustenance of human governance.

In one of his most misrepresented quotes, "The first thing we do is, let's kill all the lawyers"[2] Shakespeare represented lawyers as the most fundamental defense against the grossest manifestations of power-hungry antics wrought by the scum of humanity. In the play, Dick was a villainous character, who was leading a rebellion against King Henry. Dick and his friend Cade were belligerently anti-intellectual; they killed anyone who could read and destroy all the books and documents they encounter. They knew that they would be able to take over an ignorant population with greater ease than one where everyone understood their rights. Dick was suggesting

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[2] Said by a character called Dick the Butcher in Act IV, Scene II of William Shakespeare's Henry VI, Part II, which was written between 1596 and 1599

that, for their coup to triumph, they must eradicate society of the very protectors of justice who could both stop the revolt he intends to help spur and then remove the power he hopes to grab for Cade.[3]

How this same profession revered in the past, diminished in Nigeria, that the younger generation no longer wishes to be identified or join the profession is a call for concern. It is one of the biggest indicators of a failing State, that political gladiators will commit electoral fraud and arrogantly request that you should go to court. Unfortunately, when the legal system becomes weak, as it is in contemporary Nigeria, people resort to self-help which essentially returns the society to the state of nature, where life is brutish and nasty, where dogs eat fellow dogs and where man begins to develop the capacity to destroy the society and destroy himself.

This exercise therefore intends to remind us of our role in keeping the profession alive for the next generation. It is the only profession that has given us admiration, fame, respect, money, and value in society. Ours is a democratic society, the court should always take hints from the people either expressed through social media or other mediums. The people in a democracy are the ultimate power brokers and power wielders, they are like the wheel in a moving vehicle- they make and act through their representatives[4], technically speaking; lawyers are not members of

the judiciary, even though they are ministers in the temple of justice, however, for the majority of Nigerians, there is no difference between the bar and the bench, hence the actions and inaction of the former either promote or diminish the latter, the same manner the actions and inaction of the latter promote or diminish the former.

The Image of the Legal Profession in Nigeria

In the time past, the legal profession was the envy of most educated persons in Nigeria, during those glorious years the court was particularly pivotal in ensuring the protection of the rule of law irrespective of the system of governance in the country. Even though it was during the military era, the Supreme Court in Fawehinmi v Abacha,[5] did substantial justice by ensuring the protection of the human rights of persons. In *Doherty v Tafawa-Balewa*[6] the court exercised its power of judicial review by holding that *S.3 (4)* of the Commission and Tribunals of Inquiry Act was contrary to constitutional provisions and as a result, was null and void. It was further held that the sections that empowered the Commission of Inquiry to impose a sentence of fine or imprisonment were void being in contravention of section *20(1)* of the 1960 Constitution which forbade a deprivation of personal liberty by any order save one made by a court of justice. During these glorious years, Members of the bar were honourable as they were properly identified as ministers in the temple of justice and the majority of them walked on the street with pride at the admiration of the people.

Today, the story is different. The profession is at its lowest ebb, as members of the profession move around with the fear of possible mob action, in most cities, members of the profession have removed

[3] Olivia Rutigliano, *What did Shakespeare mean when he wrote "Let's kill all the lawyers?", 2023<https://lithub.com/what-did-shakespeare-mean-when-he-wrote-lets-kill-all-the-lawyers/>* , accessed on 11th November,2023

[4] Ebun-Olu , A., *Role of The Judiciary in the Development Of Democracy*, >https://lawpavilion.com/blog/role-of-the-judiciary-in-the-development-of-democracy/> accessed on the 7th Jan, 2025

[5] SC 45/1997, (2000) 6 NWLR (Pt.666) 228

[6] Senator Chief T.A. Doherty v. Sir A. Tafawa-Balewa [1961] All N.L.R. 604

the NBA stickers on their vehicles in order not to be identified as belonging to the legal profession. On the extreme, most members of the profession have either been killed or kidnapped.

The question that will be asked by the coming generation will be how come a profession that was revered in the past suddenly became the greatest hindrance to the attainment of the will of the people, either rightly or wrongly. The answer to the question may be indecipherable but an attempt will be made hereunder to identify the contributions of the different arms of the profession to our present woes and the remedies to change the ugly tide.

The Bar

The former Attorney-General of Britain, Patrick Hastings said of the English Bar:

"*So long as civilisation continues, English Justice will remain the admiration of the world, and English Justice could never have reached the position which it now enjoys without the independence and above all the inflexible honesty of the English Bar. No statute controls its activities: it knows no master but itself: it knows no rules except those handed down by centuries of tradition…"*[7]

Can the above be said of the Nigeria Bar, we have statutes, laws, and rules of the profession and yet, they are not obeyed by the very senior members of the profession who had a taste of a beautiful profession at its very beginning. For the benefit of hindsight, members of the bar include any person whose name is on the Roll of the Supreme Court of Nigeria.[8] By *Rule 30* of the Rules of Professional Conduct for Legal Practitioners[9], a lawyer is an officer of the court and accordingly, he is enjoined not to act in a manner that may obstruct, delay, or adversely affect the administration of justice, they are ministers in the temple of justice. How some members of this arm of the legal profession suddenly became the clock in the wheel of justice delivery is traceable to the lack of bread and butter in Nigeria. When poverty infiltrated the profession, Nigerian politicians found them easy prey empowered to carry out their bidding. Either as advisers, aides, or politicians themselves, members of the legal profession have contributed to the present reprehensible condition in the country. Justice Kayode Eso maintained "As regards the legal practitioner, he is a man of many parts: in politics, he participated in every constitution-making and every government in this country. He accepted every post including that of state executives. He had not been a real Head of State but he aspires. Yet, the lawyer, if we have to be self-examining, has also participated in every scandal that has so far been revealed in this country, he has participated in the building of the nation and also fully in wrecking the nation" [10] This seed planted by Nigerian politicians through the bad eggs in the profession has become a "stomach ache' for the legal profession today.

The cause of this 'our stomach ache' which has made right-thinking men in society sleepless nights is perhaps traceable to both the system and the type of meal received, the worst is that it has kept our abdomen protruding, with no remedy in sight. The system has gone bizarre, starting from the legal education where a Professor of Law and a Dean of the Faculty was alleged to have exchanged

[7] Kayode, E., *Thoughts on law and Jurisprudence*, Lagos, MIJ Professional Publishers Limited, (1990), 94
[8] Legal Practitioners Act, Chapter L11, s.1, LFN 2004
[9] Rules of Professional Conduct for Legal Practitioners 2007 made pursuant to the powers conferred on the Attorney General of the Federation and Minister of Justice/Chairman, General Council of the Bar
[10] Kayode, (n 8) 121

grades with sex thereby exposing potential lawyers to the reality of the system. Today, law faculties admit over five hundred students within a session in a faculty with a capacity to take about 150 students, thereby breeding half-baked graduates. The law school educational road-map also aid the grooming of lawyers who are not fit and proper to be admitted into the profession. The school is mostly overwhelmed with a high volume of students to be admitted as every tertiary institution in Nigeria wants to have a faculty of law at all costs, even if it means bribing officials of the Council of Legal Education to achieve it, no one speaks of the quality but the quantity. The corruption that exists in the system called Nigeria has found its head among members of the profession who ought to uphold the cause of justice. Attorney General offices have become channels through which chief executive officers achieve all kinds of political and criminal interests, instead of keeping to the oath of protecting the law they rather protect the oaths of their paymasters of whom they dine and wine together.

Most branches of the Bar Association have also abandoned their role of protecting and advancing the rule of law within their domains but have channeled their energy and interest in the sharing of the bar practicing fees and using their privileged positions to advance their interest. Same Very senior members of the bar whom the profession adorned with privileges, who ought to have rescued the profession are the biggest beneficiaries of the rots. The question becomes, "Who shall guide the guard?

The Bench

The bench is the main symbol of the legal profession which comprises the justices, magistrates, and the officers of different inferior courts. The key goal of the "Judex" is to instill confidence in the judiciary and by extension the legal profession, for upon this the entire infra-and superstructures of the society are built[11]. As mentioned, the Bench in Nigeria has lived up to the expectations of Nigerians in the time past, even during the military era, the courts gave judgments that were clearly in opposition with the views of the military governments in power and such judgments were so sound that it looked as if God was the one that gave the judgments. This was perhaps the reason why Nigerian legal practitioners and justices were sought after in most African states. However, it seems that the Judiciary as an arm of government in Nigeria is currently on a voyage of self-destruction. The destruction is so imminent that it may consume the very foundation of our constitutional democracy. The courts have given judgments in recent times that it seems, a certain group of persons have hijacked it, and hence our highly revered justices are no longer held in high esteem by the common man.

The 1999 Constitution of the Federal Republic of Nigeria as amended vests the judiciary powers on the courts properly so-called[12] *Section 6 (6)(b*) expressly mentioned that judicial powers vested by the provisions "shall extend to all matters between persons, or between government or authority and to any person in Nigeria, and all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person". How the courts have been able

[11] Kayode (n 8)
[12] Section 6 of the 1999 Constitution of the Federal Republic of Nigeria as amended

to sustain these express constitutional provisions is an ongoing debate by the citizens of Nigeria, particularly as it concerns political or election petition matters.

In one of his comments over the judgment given by the court of appeal on the Kano governorship election appeal, Odinkalu said *"When we say the judiciary in Nigeria is crooked, people wonder how so. Look: the Court of Appeal in the Kano governorship case resolved all the issues "in favour of the appellant & against the 1st Respondent." Yet it found the appeal lacking in merit & liable to be dismissed. Explain. The only way to understand or explain this is that the Court of the appeal changed the judgment after they had concluded deliberations. If this does not persuade people as to how bad things are, I don't know what will* "[13]

Conclusion and Recommendations

One thing is certain; no democracy can succeed without the active participation of lawyers, unlike any other profession there must be a legal practitioner in every cabinet whether at the federal or state level. This is because the constitution expressly provided that the Attorney General(s) must be a legal practitioner[14]. Again, members of the profession exclusively manage and control the judicial arm of government; they are also in the majority both at the legislative and executive arms of government as their very training already gives members of the profession an edge above other professions in a democracy. Therefore, to whom much is given, much is expected. For Nigeria to move from this stage of despondency to an advanced or developed economy, much is expected from members of the legal profession, particularly from members of the inner bar who enjoy a lot of privileges. A lawyer should be able to reconcile the interest he is bound to maintain with his clients and the duty obligatory upon him to discharge his oaths with eternal and immutable interests of truth and justice. The idea of justice should not just be to the lawyer's client, but that of the court and society. A lawyer owes a duty to the court to be fair and truthful at all times; he also owes a greater duty to society to uphold the very foundation of human justice.

The Rules of the profession, encourage all lawyers not to knowingly do any act or engage in any conduct designed to lead to the admission into the legal profession of a person who is unsuitable for admission because of his moral character or insufficient qualification or for any reason,[15] should be made to come alive. This is because legal education should not be left in the hands of just the facilities of law and the Council of Legal Education alone; every legal practitioner must ensure that men of questionable characters are not called to the Bar. There should be a deliberate policy by the Council of Legal Education to limit the number of persons admitted into the law school, to ensure that the number admitted would be by the extent the members of staff can control and based on the available teaching facility. The Council must come out hard against Faculties of Law in different universities that admit more than the approved quota. Again, the Council must carry out adequate research to ensure that requirements for the admission of foreign students or Nigerians who studied in universities abroad are in tandem with those of their Nigerian counterparts. On the side of the judex, My Lords, the justices are Nigerians, not foreigners, most schooled in Nigeria,

[13] Odinkalu, C., *Nigerian Judiciary Collapsing: Appeal Court Has Asked Lawyers To Return Certified Copy Of Kano Governorship Election Ruling For 'Correction*,< https://www.tdpnewsng.com/2023/11/nigerian-judiciary- collapsing-appeal.html?m=1> Accessed 7th Jan 2025

[14] *See sections 150 (2) and 195 (2)* of the 1999 Constitution as amended.

[15] *Rule 2*, LPA (2007), CAP20 LFN.

they attend weddings, funerals, and visit Nigeria markets, hence they ought not to be ignorant of the realities of the current situation like Justice Raynolds of America maintained that a Judex could not, and should not be "an amorphous dummy, unspotted by human emotions, neither is he a monk or a scientist, but a participant in the living stream of our natural life, steering the law between the dangers of rigidity on the one hand and formlessness on the other"[16] We cannot continue to sacrifice justice on the altar of technicality. The court is not merely a court of law but at the same time a court of justice. Justice must be seen to have been done to all manner of persons irrespective of class, gender, religion, or ethnicity. The Constitution[17] clothes every court with inherent powers to do substantial justice to all manner of persons.

The judiciary must purge itself, particularly in its recruitment process. The idea of allowing politicians to influence the appointment of certain judicial officers should stop. The bench is not an appendix where politicians send their wives/husbands nor a retirement benefit for justices who on their exit replace themselves with their children. A judicial office is a calling that is not necessarily for every qualified lawyer, such a calling requires huge discipline and sacrifice. A judge should be like Caesar's wife. A corrupt judge is worse than an armed robber and "kingdoms without justice are mere robberies.[18] It is also the view of this writer that before a judicial officer is elevated to the superior court, he should at least undergo a postgraduate programme, this will widen his or her intellectual horizon on the jurisprudence of law. Our legal education both at the undergraduate and law school vocational education level teaches more of the substantive, rigidity, and procedures; however, the postgraduate level opens the mind to reason about law and the effect that the law creates as an instrument of social engineering.

The legal profession has been in the eye of the Nigerian public in recent years, particularly following the pre- and post-events leading to the 2023 general elections and how the courts were able to deliver judgments. The result is the nose-dividing reputation of the legal profession as could be garnered from the public perception of the profession. As articulated by this paper, public perception is real; therefore, members of the profession have a huge responsibility to mitigate the effects in order not to lead to a situation where the citizens will resort to self-help or mob actions. Everyone has a responsibility to redirect and change this perception. We must not remain in the delusion that the members of the public are not learned in matters of the law. Most widely held ancient secrets have been demystified. This is an information communication technology jet age where knowledge is made abundant for every ready and willing mind. The Chief Justice of Nigeria[19] must assume the duty of bringing order to the legal profession by using his powers of regulations inherent in different legal instruments. Again, the finality of the decision of the Supreme Court[20] is a crucial factor in asserting her authority, and independence. We must recognise the fact that there is a limit to human tolerance of injustice and oppression; sooner or later a change will

[16] Kayode, (n 8) 141.
[17] *section 6 (6) (a)* of the 1999 Constitution
[18] A phrase credited to St Augustine (354-430) in Book IV of the City of God
[19] Abbreviated and referred to as "CJN ".
[20] S.*235* of the CFRN 1999.

inevitably come. It is either we start the revolution towards that inevitable change, or be prepared for the consequences of our inaction.[21]

[21] A statement credited to Hon. Dr Akinola Aguda as expressed in his paper entitled "*The Common Man and the Common Law"* presented at the Annual Conference of the Nigerian Bar Association held in Port-Harcourt from August 31 to September 4, 1985. Cited in Nwebo, O.E., *Critical Constitutional Issues in Nigeria*, Owerri, Versatile Publishers, (2011),163