



TEACHING THE LAW OF EVIDENCE IN A DIGITAL AGE IN NIGERIA

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ABSTRACT

The Law of Evidence is one of the foremost law courses in the training of prospective lawyers in Nigeria and perhaps anywhere in the world. Even though it is mainly litigation-focused, it is a subject that substantially distinguishes the law student from any other student, including those who study law subjects as part of their undergraduate courses. It is also the one law course that serves all others to give life to them in practice. It is therefore a course that demands special attention in content and methodology of teaching. In this article the authors, who are teachers and writers in the Law of Evidence, identify and address some vital matters in the teaching of the course and proffer suggestions on how the subject should be taught to achieve the aim for it and contribute in preparing lawyers who can hit the ground running in meeting the expectations from lawyers from the earliest times of their engagement as lawyers whether in courts or any other forum, including board rooms and community bodies where the gathering and effective management of information or facts to aid decision making is critical.

KEYWORDS: Evidence, Law of Evidence, Evidence Act, Teaching, Methodology, Internet age

1.0 INTRODUCTION

The Law of Evidence is without doubt one of the most important subjects that a student of Law has to study before he is certified as being found worthy in learning to be awarded the Bachelor of Laws degree of any University whose law programme is recognised by the National Universities Commission and the Council of Legal Education. If the underpinning philosophy of the subject is taken into consideration it would be acknowledged that it is also a study that inures to a student's character. The underpinning philosophy behind the law of evidence seems to be that it is of crucial importance that human beings in deciding the affairs of their fellow human beings must exercise utmost care to ensure that nothing but credible facts are relied upon to uphold one claim against the order since human beings can only rightly judge by what they see, hear, perceive or handle by their senses. That is why it has been held that 'where an issue is left in serious doubt as to make the court speculate as to what is the more probable position, the party on whom the burden of proof ultimately rests must lose, because he has failed to establish the full facts that would persuade the court to find in his favour.'¹

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¹ *Giwa-Osagie v Giwa Osagie* [2011] All FWLR (Pt. 555) 363, 383 per Ogunwumiju, JCA (as he then was).



The Law of Evidence imparts to the student some qualities that help in making him have a well-rounded personality. The basic principles of the subject such as that decisions and actions should be based on facts and not rumour, conjecture or prejudice; that he that asserts must prove; that a person should as much as possible give evidence of only what he saw, heard, touched or felt or of an opinion that is founded on verifiable grounds; that a person should be consistent in his communication to attract the confidence of those who relate with him; that there is responsibility in certain categories of persons to be discreet with information that come to them about anybody or anything and that a person in the position to determine disputes as to facts must hear all parties and properly weigh what he hears before arriving at a decision, are all principles of moral character. Equally applicable are the principles that a person should be cross-examined in order to verify the truth of what is asserted because he that is first in his own cause seems right until his neighbour comes and searches him,² and that a false witness must be punished,³ which is the foundation for the law of perjury. The courts rely on true or at least probable evidence given by true or believable witnesses to deliver those charged before them from the strong arm of the law and punish those that seek to deceive it by lies.⁴

The Law student that would be a judicial officer would also need to be worthy in character and learning to understand that it is foolishness and shame for a person to answer a matter before hearing from all those involved.⁵ The teaching and studying of the Law of Evidence is thus a serious responsibility that should be viewed and handled as such in the Law Faculty. In this article it is intended to survey and lay bare certain matters that should be taken into consideration in teaching the Law of Evidence in the course of preparing the next generation of lawyers in the Law Faculties.

2.0 DEFINITION OF KEY CONCEPTS

To strengthen our appreciation of what is involved in teaching the law of evidence in a digital age in Nigeria, it is necessary to expound on a few concepts: law of evidence/Evidence Act, evidence and teaching.

2.1 The Law of Evidence

The Law of Evidence refers to the legal rules and principles that govern the adducing of evidence in the proof of the existence or non-existence of facts in a judicial proceeding where the determination of the rights and obligations of persons is carried out. In Nigeria, it is essentially a statutory law matter. Evidence is mainly regulated by the Evidence Act 2011 (EA 201) and any

² *Holy Bible*, Proverbs 18: 17 NKJV, Thomas Nelson Inc. Nigeria is a very religious society, proclaimed by the Constitution in the Preamble to be 'a nation under God' and any talk of morality almost invariably revolves around religious teachings. The writers, being Christians have made references to the Bible. It is believed that similar principles are present in other religions.

³ *ibid*, Proverbs 19: 5, 9.

⁴ *ibid*, Proverbs 14: 25.

⁵ *ibid*, Proverbs 18: 13.



other legislation validly in force in Nigeria.⁶ However, it should not be overlooked that a preponderance of disputes among individuals, communities and organisations are resolved outside the courts and the dispute resolution bodies have different means by which evidences are acceptably presented and received. Thus, it is acknowledged in the EA 2011 that such categories of disputes, which may form the majority of disputes, and the forums that handle them, exist. It will thus not be right to treat them as if they do not exist.

The EA 2011 is enacted to apply to all judicial proceedings in or before any court established in the Federal Republic of Nigeria.⁷ The courts established and specifically named in the Constitution of the Federal Republic of Nigeria, 1999,⁸ namely the Supreme Court, Court of Appeal, Federal High Court, National Industrial Court, High Court of the Federal Capital Territory, High Court of a State, Sharia and or Customary Courts of Appeal of the Federal Capital Territory and the Sharia and or Customary Court of Appeal of the States, are all and the only superior Courts in Nigeria.⁹ Superior courts of record are established by the Constitution as provided in section 6(5), with inherent powers and unlimited jurisdiction in most civil and criminal matters.

The National Assembly or House of Assembly of a State can establish any other courts than the superior courts which shall exercise subordinate jurisdiction to that of the High Court. It can also abolish any such court which it has the power to establish or bring into being.¹⁰ These are known as the inferior or subordinate courts. This class of courts include mainly the various cadres of Magistrate Courts in which the great majority of disputes that may be considered small claims are heard and determined by lawyers who sit as Magistrates. Nigeria operates three distinct legal systems concurrently: the English common law; statutes enacted by various legislative houses, including statutes of general application of a delimited period; the native law and custom which are held valid and not repugnant or the Islamic law which by its very nature is an absolute law and not subject to the repugnancy test.¹¹ The EA 2011 applies with full rigour to the non-customary or non-religious superior and subordinate courts. The judicial powers of the Federation and the States vested in the Courts¹² are exercised in the course of judicial proceedings. The main tools and handmaidens of the courts in judicial proceedings are the rules of Court which provide for the procedures to be followed and the Law of Evidence which regulates the presentation of evidence.

⁶ (EA 2011) s 3.

⁷ *ibid*, s 256(1).

⁸ CFRN 1999.

⁹ *ibid*, s 6 (3), (5) and (6) (j) & (k). The CFRN 1999 (Third Alteration) Act 2010, by its section 2 inserted the National Industrial Court as one of the superior Courts. In *Okereke v Yar'Adua* [2008] All FWLR (Pt. 430) 626 it was held that the jurisdiction of all superior courts of record is constitutional, same having been donated by the Constitution and cannot therefore be circumscribed or limited by any other statute, let alone Practice Directions. The issue of jurisdiction cannot therefore be subjected to the dictates of any statute, including rules of court.

¹⁰ (CFRN 1999) s 6(4).

¹¹ *Giwa-Osagie* (n 1) 381. The customary law and Islamic Law operate exclusively of each other.

¹² (CFRN 1999) s 6 (1) and (2).



However, the EA 2011 does not apply to proceedings before an arbitrator; field general court martial. It also does not apply to any judicial proceedings in any civil cause or matter in or before any Sharia Court of Appeal, Customary Court of Appeal, Area Court or Customary Court unless any authority empowered to do so under the Constitution, by order published in a Gazette, confers upon any or all such courts power to enforce any or all the provisions of the Act.¹³ The responsibility of the Law of Evidence is to determine what is acceptable and usable as evidence, how it is to be produced, who can produce it, the extent of responsibility on the persons producing it and how facts may be extracted when not voluntarily produced.¹⁴

2.2 Evidence

Evidence is the fact produced by a party claiming that a state of things exists or does not exist to confirm his assertion in a judicial proceeding. The EA 2011 defines a fact to include anything, state of things or relation of things, capable of being perceived by the senses and also any mental condition of which a person is conscious.¹⁵ In judicial proceedings courts are usually concerned not with facts at large but with particular facts known as facts in issue or relevant facts and determining of the issues identified for determination. Hence the EA 2011 provides that evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such facts as are declared relevant by the Act.¹⁶ It defines ‘facts in issue’ as including ‘any fact from which either by itself or in connection with other facts the existence, non-existence, nature or extent of any right, liability asserted or denied in any suit or proceeding necessarily follows’.¹⁷

Evidence is classified into several categories or classes of which we may simply identify and not go into detailed discussion of them. The categories include: oral, documentary, real, direct, circumstantial, primary, secondary, affidavit, character, hearsay, opinion and electronic. It would not be necessary or proper to delve into any further discussion on the classification of evidence in the context of this paper.¹⁸ These categorisations may depend on the circumstances, purpose or nature of the facts being presented as evidence and they may be admissible or not admissible or admissible on certain conditions being satisfied.

¹³ *ibid*, s 256 (1) (a)-(c). It is submitted that the numbering of the section putting positive (inclusive) and negative (exclusionary) provisions in one subsection is somewhat confusing. It would have been neater to have a subsection (2) stating that ‘The Act shall not apply to (a)-(c)’. An example of an authority authorizing customary court to apply Evidence Act or any other statute is Section 9 of the Customary Courts Law of Rivers State which provides that the Governor may order in a Gazette confer on the customary court jurisdiction to enforce all or any of the provisions of any law specified in the order.

¹⁴ Chukwuma A. J. Chinwo, *Workbook on the Law of Evidence in Nigeria* (Life, Law and Grace Bookhouse, Port Harcourt in association with The Amazing Grace Partners, Port Harcourt, 2012), 29.

¹⁵ (EA 2011) s 258.

¹⁶ *ibid*, s 1.

¹⁷ *ibid*, 258.

¹⁸ Jerry Amadi, *Contemporary Law of Evidence in Nigeria*, (2011, Pearl Publishers) 14; Sebastine Tar. Hon, *S.T. Hon's Law of Evidence in Nigeria*, (2012, Pearl Publishers) 1; Chukwuma A.J. Chinwo (n 14), 62.



2.3 The Role of the Teacher of the Law of Evidence

The duty of a law teacher teaching Evidence in a Law curriculum is therefore to teach the student what evidence is and the law or rules governing the admissibility of evidence in a judicial proceeding.¹⁹ Proceedings in law courts are regulated by formal rules of procedure and practice which are expected to be complied with on the possible sanction of a matter being struck out for non-compliance.²⁰ Beyond these primary responsibilities, it is submitted that a Law of Evidence teacher also has to teach the student some of the ethical issues that often arise in the production of evidence.²¹ A lawyer owes the court, his client and the society a duty of honour and candour in the adducing of evidence. Failure in the discharge of any aspect of this duty has often brought the legal profession and the law itself into disrepute. These writers do not subscribe to the instrumentalist view that advocates litigation practice shorn of ethical considerations such as truth.²² The search for truth and justice while relying on legal evidence, which are the main concerns of the courts,²³ cannot be successful if all that a lawyer or a party has to do is to 'just produce evidence' without consideration of propriety or the court accepts whatever is produced as 'evidence'. This is where the content and methodology of teaching the subject come into focus and that is the focus of this article.

While evidence is essentially an adjectival or procedural subject for litigation and adjudication, it is submitted that a sound knowledge of the Law of Evidence and of what is or is not evidence would serve a lawyer very well in any field of his professional endeavour if he is able to eschew the litigation adversarial mindset. Nigeria is a nation where, as Fatayi-Williams, C.J.N. said in *Adesanya v President* 'rumour-mongering is the pastime of the market places and construction sites',²⁴ where everyone claims to know the 'facts' and insists on whatever he says to be taken as not only relevant but material and vital. This is not necessarily a peculiar Nigerian idiosyncrasy but it is undeniably a society of ebullient and assertive people who are ready to go as far as possible to assert a position based on 'facts' which may turn out to be, at best, not admissible in court at all or for the purpose it is presented. This is very manifest in such public interest matters as election petition where often all eyes are not just on the Judiciary²⁵ but everyone has a view of what the

¹⁹ Judicial proceeding is the regular and orderly progression of a law suit, including all acts and events between the time of commencement and the entry of judgment. *Blacks Law Dictionary*, Ninth Edition.

²⁰ *Bureau of Public Enterprises v Dangote Cement Plc* [2021] All FWLR (Pt. 1082) 227, 256D SC; *Abung v Ekabokon Global Service Ltd* [2020] All FWLR (Pt. 1024) 325, 340 F-G.

²¹ Chukwuma A.J. Chinwo, 'Restoring the Legal Profession to the Path of Integrity: The Place of the Law Teacher' in *Journal of Commercial and Contemporary Law*, (Department of Commercial Law, Imo State University, Vol.3, 2012) 220.

²² Michael P. Schutt, *Redeeming the Law: Christian Calling and the Legal Profession*, (IVP Academic, 2007); on the 'The Truth and the Integrated Lawyer' see 131.

²³ Z. Adangor, 'The Powers of the Court to Administer Justice: Philosophy, Principles, Scope and Limitations' in C.E. Halliday, *The Journey: Legal Essays in Honour of Chief Kola Babalola*, SAN, (2021, Vivid Media Nigeria, Port Harcourt) 25.

²⁴ (1981) All NLR 1, 24.

²⁵ During the hearing of the 2023 Presidential election petitions, a group of activists created a protest platform known as #alleyesonthejudiciary which in the view the Presidential Election Petition Panel and the Supreme Court was intended to intimidate and stampede the judiciary to decide on the line of public opinion rather than legal evidence and the law.



Court should admit as evidence and determine issues before it based on them. Nigeria is a story telling society and the tendency is often to tell it all, whether it goes to the issue in contest or not. Without rules of evidence matters may never end and disputes would give birth to more disputes.

The critical importance of the need to teach law students in particular ‘the use of the bow’ as it concerns Evidence has become most urgent in this age of the Internet and social media where people make claims, nay swear, to ‘facts’ they know nothing about, with such vehemence that can lead others to take up arms against persons who may have no nexus whatsoever to the ‘facts’ alleged. Whatever may have been the ulterior motives of its proponents, this is touted as one of the reasons for the aborted Hate Speech Bill which was brought before the National Assembly in 2019.²⁶

It is submitted that anyone teaching the Law of Evidence in Nigeria has to bear in mind the socio-cultural setting of the students and of the society in which they are to operate as lawyers. He must also be conscious of the evolutionary trends in the society and the frustrations that people feel with the delays in the administration of justice occasioned by the technicalities of the Law of Evidence and rules of procedure. The improvements on the matter of electronic evidence and frontloading of evidence in chief and documents are indications that the rules and practice of evidence would and should change with time and thus the teacher must be prospective and project into the future direction of the rules of evidence. Otherwise, what Lord Denning famously feared in *Packer v Packer*²⁷ would happen when the society moves forward and the Law stands still. It was actually the situation before the enactment of the Evidence Act in 2011. Whatever, it is submitted that there should be a difference between the person who is taught on the nuances of evidence and the law on it and the person who is not as much as there should be a difference between a lawyer and the lay person who thinks that every fact is evidence.

Ironically, the centrality of the Law of Evidence, it seems, becomes more imperative with the increase in litigation avoidance and call for alternative dispute resolution procedures. The implication is that more persons and platforms other than the lawyers, judicial officers and the courts would be involved in resolving disputes. The advantages claimed for those modes of dispute resolution may not be achieved if there is no understanding of and commitment to making the difference between wheat and chaff in the gathering of information or facts needed for such resolutions.

²⁶ Introduced by Senator Aliyu Sabi Abdullahi, the Bill which scope was to extend to broadcasting and potentially social media, covering materials that stir ethnic hatred, was criticised as an attempt to stifle free speech and censor critics of the government. It was sometimes linked to the Protection from Internet Falsehood and Manipulations Bill (a.k.a. social media Bill).

²⁷ [1954] P. 15, 22.



3.0 TEACHING THE LAW OF EVIDENCE IN NIGERIA²⁸

We have jointly and severally taught the Law of Evidence for several years in the University and been engaged in litigation practice to our different degrees of experience. In the course of that we have realised that the teaching of Evidence has its peculiar demands which ought to be observed in order to produce lawyers who would acquire that peculiar knack of lawyers demonstrated in their ability to go into the sanctuary of probability and discover the truth, whether as lawyers or judicial officers and which enhances their respectability in the court, board room, community or any group setting where the search for the truth is a major concern.

In teaching the Law of Evidence a teacher must take into cognisance changes in the world in all aspects, including technology, emerging human transactions including crimes unanticipated at the time an extant law or rule of evidence was made. He should also be mindful of shifts and changes in the administration of justice such as the frontloading regime whereby a witness deposes to his statement under oath, adopts it in open court, confirms exhibits, and is presented for cross-examination. He should also bear in mind differences in emphasis of the society in the drive for justice such as shift from technicalities to substantive justice delivered in simplicity, global trends and the impact of alternative dispute resolution methods.

It is now apposite to examine teaching of the Law of Evidence under the following subheads:

3.1 The Aim of Teaching the Law of Evidence

The aim of teaching the Law of Evidence, the main tool of the lawyer in the conduct of his affairs in court and other places where his skill would be required, include to –

- (1)** Teach the student what evidence is and its importance in arriving at the true state or position of facts or things in the search for justice whether as a lawyer, counsellor, judicial officer or in any other capacity that would require evidence.
- (2)** Instruct the student on how to sift the mass of information that may be available to him in his work, as a lawyer or judicial officer, from each other in order to ensure that difference is made between what is relevant and what is not.
- (3)** Demonstrate to the student how to manage the body of evidence which by law is declared to be relevant and how to present them in such a way as to be admissible under the Law.
- (4)** Instruct the student on the rules of admission and exclusion of evidence in court or other proceedings where there are set down rules as to what is admissible and what is not in the course of searching for truth in the administration of justice.

²⁸ In this section of the article, we have drawn substantially from the book of the lead author, C.A.J. Chinwo, (n 14), Chapter One, 1-6.



- (5) Show to the student the means of presenting evidence and extracting evidence which are in the possession of witnesses.
- (6) Show to the student the types or categories of evidence in law.
- (7) Make known to the student facts that need to and the ones that need not to be proved in the search for truth and justice in court.
- (8) Instruct the student on how to relate with witnesses, opposing counsel and the court in the course of presenting or seeking to extract evidence in support of the position they represent and generally teach them the rules and principles concerning the categories of witnesses, their protection and their responsibilities to the administration of justice.
- (9) Teach the student how to evaluate evidence to enable them to correctly and effectively arrive at decisions in the search for truth and justice.
- (11) Demonstrate the issues of custody and weight of evidence as they relates to different categories of persons.
- (12) Make clear the extent and procedure of the court's involvement in the search for evidence.

This article does not claim to have the perfect answer but it is intended to redirect attention and attitude of law teachers in particular to enable them achieve the aim of the subject and enhance the presentation and representation of lawyers wherever they may be found in any capacity.

3.2 Peculiar Demands or Challenges of Teaching the Law of Evidence

Teaching the Law of Evidence should be different from the teaching of most other Law subjects because:

(i) Evidence Cuts Across all other Subjects in Litigation – Evidence is relevant in all matters of rights and obligations of persons whether in adjudication or any other sort of proceeding. Be the matter one dealing with corporate affairs, land, contract, tort, constitutional or administrative law, matrimonial cause, commercial and finance issues, international law and so forth, decisions on them can only be reached based on evidence which is acceptable in the particular proceeding or context. That, of course, is the reason that it is a core subject but more than any other core subject, evidence is inevitable and non-severable in practice. It is therefore important that the teacher of Evidence should have more than average knowledge and understanding of most of the subjects in an undergraduate Law degree programme.



(ii) It is the means by which the other Substantive Legal Rights are Proved – The involvement of Evidence in all other subjects is, of course, for the purpose of proving the existence or non-existence, nature or extent of any right, liability or disability asserted or denied under any aspect of law in any proceeding. No substantive right asserted to exist in any person or liability claimed against any other person in any aspect of the law can be proved without evidence. It is therefore necessary to learn how to prove the rights by means of legal evidence.

(iii) It is Practical in its Entirety – The Law of Evidence is not one to be learned on theory even though the theories behind the rules should be known. The teacher would fail in his duty if he presents the subject as a theoretical concept without relating it to practical scenarios. That, unfortunately, is the approach of some teachers of the subject. Evidence is the wire by which life is given to the theory of any other subject in Law. With all respect to law teachers who may not be litigation-inclined, it is suggested that Evidence should be taught by lecturers who are or had been in active litigation practice. As proposed below, students should also be made to study Evidence as in a laboratory whereby each and every one is actively involved in discussion, demonstration and arrival at decisions or conclusions on issues.

3.3 Form, Content and Methodology of Teaching of Evidence

Based on the foregoing, we dare to suggest that the teaching of the Law of Evidence should be different in form and content. It should –

(1) Be Based and Centred on the Evidence Act – This is the approach adopted by one of the earliest writers on the Law of Evidence in Nigerian, Timothy Akinola Aguda in his book of the title²⁹ which was based on the 1945 Evidence Ordinance.³⁰ The author stated that in writing the book he kept in view the needs of students at the universities and Law School and of legal practitioners and judicial officers. Later authors such as Fidelis Nwadialo went further to discuss the provisions of the Act in ‘prose’ form by discussing cases on it and advancing several scenarios.³¹ Both models have their advantages but it is suggested that prominence must be given to the Act because Evidence is a statute-based subject. More recent writers such as Jerry Amadi and Sebastine Hon have commendably adopted both models with the abundance of cases that have emanated from the courts over the years on the subject and undertook some comparative studies of other jurisdictions. However, it is important that readers must be made to focus more on the provisions of the Act than on commentaries or judicial precedents because the provisions are explicit enough in most cases. It is settled that where the provisions of a statute are clear there is little need for canons of interpretation beyond the words of the statute.³²

²⁹ T Akinola Aguda, *Law of Evidence in Nigeria*, 2nd Edition, Sweet and Maxwell.

³⁰ Later Cap 62, Laws of the Federation of Nigeria, 1958.

³¹ See Fidelis Nwadialo, *Modern Law of Evidence in Nigeria*, Ethiope Publishing Corp. Benin City.

³² *Schroeder & Co v Major & Co (Nig.) Ltd* [1989] 2 NWLR (Pt.101) 1, 12, per Wali, JSC and 18, per Oputa, JSC; *Ayodele v Nigerian Police Council* [1989] 11 NWLR (Pt. 572) 105, 112, per Mukhtar, JCA (as he was then); *N.I.D.B. v Unisteel Works Ltd* [1995] 3 NWLR (Pt. 386) 686, 699.



(2) Evolve Practical Engagement of Students – Workbook Model – Teaching Evidence should involve the students in practice sessions. One way to do this is to evolve the workbook model to enable students get engaged in exercises.³³ This enables the student to think actively and interact with the EA 2011 and authors in the course of study. As captured in the *Workbook on the Law of Evidence in Nigeria* by Chinwo, a workbook:

- Helps the student to work along with the author.
- Enables him to explore areas and issues that may not be or nor have been aptly and fully covered by the author;
- Sets the student thinking and perhaps ‘struggling’ to be part of the process of development of the principles and application of the principles to real life issues by the author.
- Helps a student to engage in self-assessment to know how far he or she has grasped the instruction or knowledge given in the text books or class before proceeding further.
- Enables the student to be engaged in activity rather than just ingesting knowledge without evaluating how much is digested.
- Makes transition from learning to working and earning less stressful and more seamless; and
- Makes the theories more real and easily appreciated by the student.³⁴

(3) Demonstration of Scenarios and Role Plays – A Teacher of Evidence should be proactive in creating scenarios which would make the identification, gathering, classification and presentation of evidence practical. For instance, in teaching burden and standard of proof he should create scenarios that would demonstrate on whom the burden lies and the standard of proof that would be satisfactory of the requirement of the Act. Such a scenario should indicate the ingredients of the offence and how each would be proved. The students should be made to play the roles in the class in the view of their colleagues. The Law of Evidence should be taught and studied in a demonstrative mode. Just as evidence involves what a person had seen with his eyes, heard with his ears, handled with his hands, felt with his body and in some cases, what he thinks, so the study should be patterned to be appreciated with all the senses of the student.³⁵

(4) Discussion of All Sections of the Act – As stated earlier, the law of Evidence is based almost exclusive on the Evidence Act. It is, therefore, very important that all sections of the Act should be discussed by the teacher and students in the course of the period allowed for its study in the curriculum. This would be impossible in a system of teaching where notes are given. It is submitted that, if it can be done in any subject which we do not consider helpful for undergraduate students, notes should not be given by a teacher in the Law of Evidence. Every student should have the Act

³³ Chukwuma A. J. Chinwo (n 14).

³⁴ C.A.J. Chinwo (n 14) 20-21.

³⁵ *ibid*, 21.



and the sections should be read by all students and explained against the backdrop of practical scenarios created by the teacher or students, based on incidents that can easily be appreciated by the average student. Students should be encouraged to read reports of cases in full as they deal with sections of the Act. It is a disservice to a student for any part of the Evidence Act to be left out in the course of his studies. It is well known that as soon as a student gets past a class he may not meet the subjects studied in the class again until he is confronted with it in legal practice. Many lawyers and judicial officers often appear to be at a loss when they are confronted with some provisions of the Act and some general principles of Evidence which they may not have studied in school and which, in what we consider a retrogressive approach, was not part of their 'areas of concentration' (AOC).

(5) Observation of Live Court Hearings – Visits to Courts to see judicial proceedings in action where evidence is adduced, tendered, objected to, admitted or rejected, and witnesses are examined, should be encouraged. The practice of many Universities in sending many of their students on internship ought to be adopted by all. The Lecturers can collaborate with some judicial officers, especially those well known to pay attention to details in the matter of evidence to arrange how and when students can visit the courts to watch proceedings and ask questions.

(6) Moot Court Trial – The practice of moot court should be made active in Law Faculties as part of clinical legal education and teachers of the Law of Evidence should be appointed staff advisers or mentors on the proceedings participation in which we suggest should be mandatory for all students studying Evidence. In particular rather than sitting or standing in class to virtually repeat the work of the subject teacher, tutorial lecturers should moderate the moot sessions.

(7) Case Reviews – It is suggested that students would better imbibe and appreciate the Law of Evidence if they are made to read and review cases in which the courts have dealt with sections of the Evidence Act. This would be better achieved by reading reports of trial courts in civil and criminal proceedings. Law Reports such as the Rivers State Law Reports³⁶ or some recent books published by or in honour of retired Judges of the High Court which contain their judgments may be very helpful.³⁷

(8) Consideration of Ethical Matters on the Law – Teaching the Law of Evidence should not be a bare-bone endeavour. The subject is tied up with considerations of truth and doing of justice, confidentiality, protection of young and vulnerable persons, relevancy and respect for dignity of persons, privacy especially of witnesses, interest of public security and morality and so forth. These

³⁶ Edited by Charles O. Opara.

³⁷ D. Oloworaran & U.E. Oloworaran (Eds), *Selected Judgments of Hon Justice C. A. Okirie*, (rtd) Volumes 1-3, (2020, TND Press Ltd, Port Harcourt; Alozie Echeonwu (Ed.), *The Journey, Echoes, Essays & Selected Judgments. A Compendium in Commemoration of the Retirement of the Hon. Justice Sylverline O. Iracunima*, Section E; and Hon. Justice A. Enebeli, J (Rtd), *The Spirit of the Law through the Cases* (2023, Pearl Publishers Intl. Ltd, Volumes 1-3.



are matters that the legal positivist and instrumentalist may perhaps consider as extraneous matters but which, it is submitted, would be helpful in raising lawyers who can be trusted to think and act ethically.

It is therefore suggested that in teaching the Law of Evidence the Law teacher should also have an appreciation of the need to make the students realise that evidence is an instrument for the search for truth and thus should not lend his professional competence or privilege to perverting the truth by perverting, distorting, hiding or otherwise withholding evidence. He should be taught that in cross examination relevance is the sky and that he has no right to abuse his privilege by asking questions with the main aim of embarrassing witnesses who are in court to help it find the truth of the matter before it. Some lawyers do so.

In the context of litigation in Africa where education in the language of the court is limited, where as a result of non-documentation, traditional oral evidence of history or title is often given by the aged, the student should be taught that whether as an advocate or judicial officer he must respect the aged or otherwise handicapped and be courteous to them as much as the advocate and judicial officer owe each other duty of mutual and reciprocal respect.

4.0 EXPECTED RESULTS OF EFFECTIVE TEACHING OF THE LAW OF EVIDENCE

If the subject is taught as envisaged in this article it is expected that the student would gain tremendously and it would rub off on the administration of justice whether he is an advocate, judicial officer or judicial assistant. The benefits would include -

- (i)** Confidence in Law Practice – A lawyer that is grounded in the law of evidence would not have any cause for worry or anxiety in trial. He would know when and what to object, have the ready answer to objections and most importantly be able to anticipate and prevent objections.
- (ii)** Inculcate in the student the juridical attitude and judicial mind. This will help in creating a proper grasp of judicial economy, that is, efficiency in the operation of the courts and the judicial system, especially the efficient management of litigation as to minimise duplication of efforts and avoid the wasting of judicial time and resources.
- (iii)** Instill in students the proper appreciation and evaluation of facts in their interpersonal relationship with others.
- (iv)** Help the students when they qualify as lawyers in litigation practice or other related areas such as in-house instructing solicitors to know what to and how to preserve evidence for court and thus enhance their contribution to the administration of justice value chain.



(v) Teach the students the technique of evaluating of facts to give them appropriate weight in their judicial and ordinary life. With the present curriculum of legal training not including training on adjudication, the Law of Evidence properly taught would be the best opportunity to learn what evaluation of evidence, a crucial responsibility in adjudication means and involves, as espoused by the Supreme Court in *Odojin v Mogaji*.³⁸

(vi) Enable them to make informed choices in their career paths. By the time a student has been properly taught the Law of Evidence he would develop keenness for litigation whether as a prosecuting or defence counsel, judge or find his feet outside the courts. Yet in whichever place he is found his sound knowledge of the Law of Evidence would avail him much.

5.0 CONCLUSION

In this article we have tried to propose some approaches to teaching of the Law of Evidence which we are convinced would help students of the subject to have effective understanding and grasp of it. Evidence should be a subject that Law students should be looking forward to being involved in because of its very practical and demonstrable ways. The average law student in the Law Faculty is focused on litigation practice and acquisition of the skill of the good lawyer. It is in the Law of Evidence that he obtains it. That puts on the teacher of the Law of Evidence the burden of passing the knowledge of the subject in a manner that most students would relate to and be involved. That is what we have tried to propose in this paper.

³⁸ [1978] 1 LRN 212, 213; [1978] 1 NSCC 257; (1978) 4 SC 91.