

**RETHINKING THE FUTURE OF LEGAL EDUCATION IN NIGERIA  
IN A COVID-19 PANDEMIC ERA\***

**Abstract**

*The paper examined the future of legal education in Nigeria against the wake of the COVID-19 pandemic that ravaged the globe and reordered the way things are done including imposition of complete or partial lockdown and ban or restrictions on mass gatherings to stop its spread. The myriads of problems and challenges that confront legal education in Nigeria were identified including the fundamental fact that education is presently not a justiciable right under the Nigerian constitutional order in contradistinction to what a comparative study of the constitutions of other African countries like Uganda, South Africa, Kenya and Ghana reveal. Using the doctrinal method of analysis of the comparative constitutional, statutory and case law authorities on the subject matter, the paper viewed among other things that there must be a paradigm shift via constitutional amendment on how the right to education is protected in Nigeria and further recommended hands-on solutions to legal education in Nigeria including adoption of online learning and examination techniques to reduce physical contact, avoid community spread and maintenance of social distancing consistent with COVID-19 protocols.*

**Keywords:** Legal education, COVID-19, lockdown, lawyer, Nigeria

**1. Introduction**

The challenge of legal education in Nigeria is not any different from a discussion of the challenges that have bedevilled the entire gamut of higher or tertiary education in Nigeria. This is because legal education is carried on in both the Universities and Nigerian Law School which are all tertiary institutions. Prior to the outbreak of the global scourge called COVID-19,<sup>1</sup> the education sector in Nigeria has always been in dire straits. It is a notorious fact that the standard of education in Nigeria, whether in primary, secondary and tertiary levels are not only poor but falling with incessant strikes as major setbacks. With specific reference to University education, on 23<sup>rd</sup> December 2020, the Academic Staff Union of Universities,<sup>2</sup> the Senior Staff Association of Nigeria Universities and Non -Academic Staff Union of Education and Associated Institutions<sup>3</sup> called off their nine month indefinite strike<sup>4</sup> action out of the many strike actions that have become part of the unfortunate history of higher education in Nigeria. As though that was not enough, on February 14, 2022, ASUU started another nationwide strike action with the result that five months after, most public universities have been shut down and academic activities therein crippled and there is no known date when the strike will be called off. No doubt, that ASUU and allied unions have been in the forefront of the agitation for improved standard of education in Nigeria but their tactics, *modus operandi* and rules of engagement must change as incessant strike actions have done more harm than good to higher education in Nigeria. The kaleidoscopic reasons why the above named three sister unions that operate in the higher institutions are always on strike and in the process not only distort the academic calendar

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<sup>1</sup> According to the World Health Organisation, hereinafter abbreviated and referred to as 'WHO', on 31 December 2019, WHO was informed of cases of pneumonia of unknown cause in Wuhan City, China. A novel coronavirus was identified as the cause by Chinese authorities on 7 January 2020 and was temporarily named '2019-nCoV'. On 30 January 2020, Dr Ghebreyesus, WHO Director-General declared the novel coronavirus outbreak a public health emergency of international concern (PHEIC) which represents WHO's highest level of alarm. At that time there were 98 cases and no deaths in 18 countries outside China. On 11 March 2020, the rapid increase in the number of cases outside China led the WHO Director-General to announce that the outbreak could be characterized as a pandemic. By then more than 118 000 cases had been reported in 114 countries, and 4291 deaths had been recorded. See World Health Organisation, 'Coronavirus disease (COVID-19) pandemic', <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov#:~:text=On%2031%20December%202019%2C,2019%2DnCoV%E2%80%9D> accessed 10/05/2022. Millions of COVID-19 deaths have been recorded ever since across the globe. As at 12/05/2021, the National Centre for Disease Control otherwise called 'NCDC' records showed that there were 165,515 confirmed cases, 7,092 active cases, 156,358 discharged cases and 2,065 deaths from COVID-19 in Nigeria. Only 1,977,479 samples were tested out of a population of nearly 200 Million people See NCDC, 'COVID-19 Nigeria', <https://covid19.ncdc.gov.ng/> accessed 12/05/2022.

<sup>2</sup> Otherwise more popularly called 'ASUU'. This is the umbrella body of all lecturers in the Federal and State Government owned Universities in Nigeria.

<sup>3</sup> Otherwise more popularly called 'SSANU' and 'NASU' respectively.

<sup>4</sup> On the 23<sup>rd</sup> day of December 2020, ASUU 'conditionally' called off the nationwide strike it embarked in March 2020. See Allschool, 'JUST IN: ASUU Suspends 9-Month-Old Strike', <https://www.allschool.com.ng/when-will-asuu-call-off-strike/> accessed 10/05/2022.

but also destroy the quality of education in the higher institutions have always been in the public domain. These do not bear repeating<sup>5</sup> although the on-going total and indefinite ASUU strike was embarked upon to demand improved welfare packages, better working conditions, and the implementation of various labour agreements signed with the Federal Government between 2009 and 2020 including the agreement to increase funding of public universities.<sup>6</sup>

Many factors are responsible for the decline in standard of higher education which include but are not limited to poor funding of education and poor implementation of educational policies and programmes by the Federal and State Governments in Nigeria. Others include frequent changes in Government policies on education, prevalent examination malpractices including impersonation at examinations, prolonged students or lecturers strikes, bureaucratic bottlenecks in policy formation, lack of will on the part of legislature to effect necessary legal changes, poor infrastructures and undue political interference. Suffice it to say then that whatever challenges that have been confronting higher education in Nigeria also afflict legal education, even much more, because there cannot be a whole without a part. Stakeholders are worried stiff about the failing standard in the legal education sector whose causes are varied and have affected the system through a gradual process. It is generally agreed that the quality of legal education has a direct impact on the prestige of the legal profession itself. Given that the quality and quantity of higher education in Nigeria which includes legal education was adjudged to be poor in pre COVID-19 epidemic period, how then is the already ailing system going to cope with legal education in the emergent COVID-19 pandemic era with its additional public health challenges? What will be nature of and or what methods will be adopted in impartation of legal knowledge in Nigeria during and after the COVID -19 pandemic? Proactive and pragmatic answers to these questions and many more are desired in the quest to rethink the future of legal education in Nigeria. Against this backdrop, this presentation will focus mainly on the challenges that confront the law programmes (undergraduate and postgraduate) mounted in the Universities while references will be made to the Nigerian Law School where necessary. According to Onolaja, J, (as he then was),

A lawyer can only be as good as the system of legal education that produced him. Legal education- academic as well as vocational- is a vital ingredient that affects the quality of our justice system and the role of lawyers in the political, economic and social development of our country. We see this daily in relation to litigation where the role of lawyers is most visible. The quality of judicial decisions and the coherence of the reasoning underlying a judgement depends upon the quality of argument presented to the Court and upon the ability of the judge. All these depend upon the quality of our legal education.<sup>7</sup>

Thus, in the ensuing discussion that will follow, the origin of legal education, the formal or ancillary challenges on the one hand and the fundamental or structural challenges on the other hand that bedevil legal education in Nigeria will be exhaustively discussed and the way forward will be proposed or suggested. This has become imperative because of the fact that COVID-19 has brought up new public health challenges and new ways of doing things globally and the legal education in Nigeria cannot be any different.

## **2. Spectrum of Legal Education in Nigeria: From the Lecture Halls to the Courtrooms**

In present day Nigeria, one does not just become a lawyer unless he or she possesses a basic University Degree in Law and is called to the Nigerian Bar by the Body of Benchers after a successful stint at the Nigerian Law School. The current form of Western legal education in Nigeria has historical origin traceable to the report of the Unsworth Committee on Higher Education of 1959 which proposed certain recommendations. The Unsworth Committee recommended *inter alia*:

(a) Legal education should be provided locally and adapted to the needs of Nigeria.

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<sup>5</sup> R, Lateefah, 'ASUU Strike: The Nightmare of the Average Nigerian Child', <https://www.appliedworldwide.com/topical/asuu-strike> accessed 11/05/2022. See also C. Uwasomba, 'Why does ASUU always go on strike', <https://www.pambazuka.org/governance/why-does-asuu-%E2%80%98always%E2%80%99-go-strike> accessed 11/05/2022.

<sup>6</sup> Punch, 'ASUU strike: Idle students find solace in vocational, factory jobs', <https://punchng.com/asuu-strike-idle-students-find-solace-in-vocational-factory-jobs/#:~:text=ASUU%20started%20its%20strike%20on,Government%20between%202009%20and%202020> accessed 20/05/2022.

<sup>7</sup>Cited in D.D. Disu, 'The Current Day Reality of the State of Legal Education in Nigeria; Prospects, Challenges & Productive Way Forward', file:///C:/Users/user/Downloads/SSRN-id3534848.pdf accessed 18/04/2022. For further reading on the history of legal education in Nigeria, see generally, S. Erugo, et al., 'Legal education and Social Change in Nigeria' in NALT, *Law, Democratisation and Social Change*, (NALT Conference Papers 2012) 205; and C. A. Omaka et al, 'Legal Education in Nigeria: The Prospects and Challenges', in C. A. Omaka, (ed.), *Law in Nigeria at 100: Reviewing the Past Projecting the Future*, (Proceedings of the 47th Annual Conference of the Nigerian Association of Law Teachers (NALT), 2014 June 2nd-6th at Ebonyi State University, Abakaliki, Nigeria).

- (b) Law facilities should be established at University of Ibadan and any other subsequent Universities to offer Degree in Law.
- (c) A Law School should be established in Lagos to provide practical training for Law graduates.
- (d) A Law Degree should be a requirement for practice of Law in Nigeria.

The acceptance of the recommendations set the tone for the enactment of *Legal Education Act 1962* and *Legal Practitioners Act 1962*.<sup>8</sup> The above, formed the foundations upon which legal education in Nigeria is now embedded. Basically, the education of a prospective lawyer commences from the University where he is made to undertake compulsory and elective law subjects or courses. The duration varies from five years for regular admission to four years for direct entry admission. Legal education at this stage is majorly regulated by the National Universities Commission and the Council of Legal Education. On the flip side, the Council of Legal Education is exclusively charged with the legal education of Law School students, and the issuance of qualifying certificates to those who passed Bar examinations as a condition precedent for being called to the Bar by the Body of Benchers. Membership of the Legal Profession in Nigeria is regulated by law. *Section 2(1)* of the Legal Practitioners Act provides three classes of persons entitled to practice law in Nigeria namely:

1. Those entitled to practice generally in Nigeria.
2. Those entitled to practice for the purpose of any particular office such as the Attorney General and Law Officers in public or civil service.
3. Those entitled to practice by warrant for the purpose of any particular proceeding under *section 2(2) and (3)* of the Legal Practitioners Act.

This presentation on rethinking the future of legal education in Nigeria in a COVID-19 pandemic era is more interested in the first category, being those entitled to practice generally in Nigeria. This means those whose names are on the Roll of Legal Practitioners kept by the Registrar of the Supreme Court. A person shall be entitled to be called to the Nigerian Bar and have his name on the Roll of Legal Practitioners kept by the Registrar of the Supreme Court if-

- (a) He is a citizen of Nigeria, or non-citizen of Nigeria;
- (b) He produces a qualifying Certificate to the Body of Benchers; and
- (c) He satisfies the Benchers that he is of good character. He must be a fit and proper person.
- (d) He has been called to the Bar by the Body of Benchers; and
- (e) He produces a Certificate of his Call to the Bar to the Registrar of the Supreme Court.

Under this subgroup, the person must firstly have earned a good First Degree in Law from a recognised University, either in Nigeria or overseas, after having been found to be 'worthy in character and learning. Only persons duly called to the Nigerian Bar by the Body of Benchers and are up-to-date with their Annual Practicing Fees and of good standing at the Bar have right of audience in courts as members of the legal profession. To this end therefore, legal education is equated to the education of individuals who intend to be lawyers or who intend to use the knowledge acquired in the pursuit of their legal education to some end either related to practice of law in the court, governance, politics, academia, corporate, business or other civil or social or cultural vocations or dealings. Accordingly, legal education was loosely defined as

a system of education that produces skilful and ethical lawyers who must have, among other things, a technical competence to analyse legal issues against the background of existing law, the direction the law is or should be developing and the key policy considerations. Legal education includes Bachelors, Masters and Doctorate Degrees in Law, vocational courses which prospective lawyers are required to pass before admission to the Bar, Continuing Legal Education, pupillage, Legal training in specific areas of law such as Legal drafting, Taxation, Business law, Education Law, Property Law.<sup>9</sup>

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<sup>8</sup> Note that these two Acts with five subsequent amendments and repeals have now metamorphosed into the *Legal Education (Consolidation, etc.) Act*, CAP. L10, Laws of the Federation of Nigeria, 2004, and the *Legal Practitioners Act*, CAP. L.11 Laws of the Federation of Nigeria 2004. The former is designed to regulate practical legal education in Nigeria while the latter statute regulates the qualification and practice of the legal profession in Nigeria. See C.C. Ajuyah, 'The Future of Legal Education in Nigeria', being a discussion paper presented at Breakout Session of the Nigerian Bar Association, Annual General Conference, Abuja, 2015, available at <https://s3-eu-west>

[1.amazonaws.com/nbaagc/papers/Sessions\\_Files/Legal+Education+Session/Reviewed+THE+FUTURE+OF+LEGAL+EDUCATION+IN+NIGERIA.pdf](https://s3-eu-west-1.amazonaws.com/nbaagc/papers/Sessions_Files/Legal+Education+Session/Reviewed+THE+FUTURE+OF+LEGAL+EDUCATION+IN+NIGERIA.pdf) accessed 18/04/2022. See also C.O. Okonkwo, 'A Historical Overview of Legal Education in Nigeria', available at: <https://ssrn.com/abstract=3534848> accessed 18/04/2022.

<sup>9</sup> N.J. Madubuikwe-Ekwe, 'CHALLENGES AND PROSPECTS OF LEGAL EDUCATION IN NIGERIA: AN OVERVIEW', file:///C:/Users/user/Downloads/156726-Article%20Text-408664-1-10-20170529.pdf

### **3. The Formal, Routine or Ancillary Challenges of Legal Education**

There seem to be general agreement that the standard of legal education (indeed education in general) in Nigeria is not something to write home about. With particular reference to legal education, various commentators have expressed the unfortunate view that legal education in Nigeria has failed in its responsibility to produce quality and reliable lawyers for the nation.<sup>10</sup> Accordingly, this has occasioned a diminished public confidence in the system of legal education in Nigeria with many people questioning the quality and integrity of the legal profession. It is observed that many lawyers lack the intellectual skills to deal with simple legal tasks they are briefed to handle; some lack the rudimentary knowledge of basic legal principles and some dabble into unethical conducts such as defrauding clients, bribing judicial officers and embezzlement of funds in their custody.<sup>11</sup> Hence, there is clamour for reforms not only in legal education but the entire educational system in Nigeria 'as 'the learning of lawyers has deteriorated over the years.<sup>12</sup> Thus, anyone who cares about lawyers and learning will 'easily acknowledge that lawyers are now less learned than they used or ought to be.<sup>13</sup> As correctly observed by Ayua

Legal education 'cannot escape the general malaise affecting education in the country. It suffers along with the other branches of education because they are all subject to the same factors that undermine the provision of quality education. Many employers... have expressed great alarm over the deteriorating standards of Lawyers that are being churned out of the Law faculties today. Many are ill-equipped intellectually and otherwise to deal with the legal issues they are briefed to handle. Some lack even a rudimentary grasp of basic legal principles. Sadly, these species of lawyers are now to be found at both ends of the spectrum- the Bench and the Bar. The situation has deteriorated steadily and alarmingly over the years such that many now question the quality and the very integrity of the legal profession. The problem obviously stems from the decay in the educational system that has been producing such lawyers that we have described thus. If the public faith in the legal profession is to be sustained, something both urgent and decisive has to be done to salvage the state of legal education in particular.<sup>14</sup>

The above expositions are eloquent statements of the problem of legal education in Nigeria. Many factors are responsible for this decline. Even before the emergence of COVID-19 pandemic, the notorious or publicly known formal problems plaguing legal education<sup>15</sup> in Nigeria include but are not limited to the following:

#### **Analogue Teaching Methodology and Conservative Curriculum**

Using analogue methods to study law in a digital age is a recipe for chaos. Teaching in many of Nigeria's law faculties does not embrace modern teaching methodologies. Notwithstanding the National Universities Commission's mandate to frequently revise the undergraduate law curricular, the curriculum in many Nigerian law faculties remains largely uniform and unchanged. According to Disu, the average course offerings in a Nigerian law faculty are only about 40 in contrast to the over 70 offered in foreign Universities. Only traditional law courses are being offered in many of our Law Faculties. Attention is not being paid to emerging areas of law.<sup>16</sup> The consequence of this is that the law graduate of a Nigerian University is not globally competitive in an evolving legal practice.<sup>17</sup> We must bear in mind the words of Friedman who observed thus: 'It would be tragic if the law

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accessed 10/05/2022.

<sup>10</sup> See for instance, Daily Trust of Tuesday December 12, 2017, 'Again, Lawyers Examine Standard of Legal Education in Nigeria' <https://dailytrust.com/again-lawyers-examine-standard-of-legal-education-in-nigeria> accessed 1/6/2022.

<sup>11</sup> N.J. Madubuike-Ekwe (n. 8).

<sup>12</sup> E. Ojukwu, 'Revisiting Legal Training in Nigeria: Wanted a Mandatory Continuing Legal Education Programme', (1998) *Journal of Commercial, Private and Property Law* 19, cited in N.J. Madubuike-Ekwe, 'CHALLENGES AND PROSPECTS OF LEGAL EDUCATION IN NIGERIA: AN OVERVIEW', file:///C:/Users/user/Downloads/156726-Article%20Text-408664-1-10-20170529.pdf accessed 10/05/2022.

<sup>13</sup> A.A. Oba, 'Towards Regaining Learning and Correcting Learnings in the Legal Profession in Nigeria', (2007) Vol.1(1) *Review of Nigerian Law and Practice* 14.

<sup>14</sup> I. A. Ayua., 'The Objectives of Legal Education in Nigeria,' in I. A. Ayua and D.A. Guobadia (eds.) *Legal Education for Twenty-First Century Nigeria* (Lagos; Nigeria Institute of Advanced Legal Studies, 2000).

<sup>15</sup> See generally, D.D. Disu, 'The Current Day Reality of the State of Legal Education in Nigeria; Prospects, Challenges & Productive Way Forward', file:///C:/Users/user/Downloads/SSRN-id3534848.pdf accessed 18/04/2022.

<sup>16</sup> Disu (n.14).

<sup>17</sup> Sections 4 and 18 of the NUC Act, Cap.N81 & E3 LFN, 2004. See also NUC Benchmark Minimum Academic Standard which requires curriculum review every five years.

were so petrified as to be unable to respond to the unending challenge of evolutionary or revolutionary changes in society.<sup>18</sup>

#### **Poor Learning Environment/Inadequate Facilities**

The inadequacy of infrastructural facilities is another obstacle to legal education in Nigeria. No lecture theatres, no staff offices, no student's common room, decrepit facilities and poor furniture. This challenge is the most visible among many Law Faculties. Only very few Law Faculties in private universities, possess an Information Communication and Technology driven lecture theatre with access to visual apparatus for lectures. These deter students from attending lectures, resulting in poor performances.

#### **Excess Work Load, Ill-Motivated Teaching Staff and Absence of Specialists**

Many Law Faculties in Nigeria are understaffed. Many Law Faculties are in breach of the standard student to lecturer ratio. It is needless to say that this has made many lecturers to be burdened with more tasks than they can reasonably undertake. It is not uncommon for law lecturers to handle many courses which is offered by countless number of students and this does not encourage specialisation.

#### **Flagrant Breach of Admission Quota**

Presently, there are over 38 Law Faculties in Nigeria with prospects of new ones springing up. This has resulted in an increase in the number of students studying law in universities with no corresponding staff increment. This has also resulted in low quality of output by overworked academics (whose salaries and earned academic allowances remain unpaid) and inability of available facilities to cater for student populace. Closely allied with the above is the mindless breach of admission quotas by universities. Many Nigerian Universities breach their stipulated admission quota. The private Universities are the worst culprits with their commercialisation of everything to the detriment of expected quality and quantity of legal education.

#### **Poor Funding of Public Universities, Brain Drain and Prohibitive Fees by Private Universities**

There is no doubt that adequate funding is a prerequisite to a qualitative legal education because quality education is a very expensive enterprise. While private Universities charge what may be considered high or exorbitant fees, higher education in the public sector is generally underfunded and legal education has not proven immune to this scourge. Poor funding has made the Nigerian Law School to increase its tuition to sustain herself internally. The low funding or no funding syndrome has also made Universities to lose seasoned teachers who are generally not adequately remunerated. How does anyone explain a situation where lecturers including Professors in the Faculty of Law of public Universities are not provided current statutes, law reports, books, e-resources and journals in their areas of specialisation even as they are not sponsored to relevant national and international seminars, workshops, trainings and other studies relevant for staff development?

#### **4. Structural Or Emerging Challenges To Legal Education In Nigeria In And Post Covid-19 Pandemic Era**

The earlier identified challenges have been denoted as formal or routine challenges to legal education in Nigeria. This categorisation is deliberate because the structural or fundamental problems that have been afflicting this sector and those that will emerge or be thrown up because of the impact of COVID-19 scourge are many and will be identified shortly in order to balance the narrative. COVID 19 pandemic era legal education will require more intuitive thinking than obtuse reasoning. During the first phase of COVID-19 pandemic in Nigeria in 2020, there was complete lockdown and closure of all academic institutions and other public facilities. This led to loss of one complete academic year of study as the schools merely resumed for studies in early 2021. The prime aim of lockdown was to flatten the COVID-19 curve through a persistent reduction in the confirmed cases, and ensuring that infected persons quickly recover from the virus. During lockdown, people were forced to stay at home, location of contacts such as schools, universities, hotels, clubs, and religious houses remained closed. Social gatherings involving more than fifty people were prohibited and economic activities involving physical interaction were halted.<sup>19</sup> As the novel COVID-19 scourge ravaged the affluent world and with no cure in sight, except vaccines whose efficacies are being disputed, aside the routine protocols for COVID-19 that include wearing of face mask in the public, hand washing, respiratory hygiene, maintaining social/physical distancing, provoking inevitable but unwanted macroeconomic shocks (triggered by either complete or partial lockdown measures), what fate befalls legal education in Nigeria? This query is important because the emphasis for prevention of COVID-19 spread was laid more on less human contact to avoid community spread and no one knows how long more it will last and how deadlier it can become in Nigeria given the deadlier variant that ravaged India killing

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<sup>18</sup> B.C. Nirmal, R. K. Singh (eds.), *Contemporary Issues in International Law: Environment, International Trade, Information Technology and Legal Education* (Singapore; Springer Nature Pte Ltd, 2018) 580.

<sup>19</sup> COVID-19 Health Protection Regulations 2021. See also R. L.I. Kazeem, B. Ajide, and O. O. Julius 'Easing of lockdown measures in Nigeria: Implications for the healthcare system', <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7490626/> accessed 11/05/2022.

people in thousands daily.<sup>20</sup> The human-to-human transmission rates of the virus were not only alarming and worrisome but also, the respiratory dysfunction and unwavering deaths it caused in Nigeria and other parts of the globe are matters of grave concerns. As a proactive protective measure, for instance, most courts in Nigeria have adopted COVID-19 procedures of e-filing of processes and virtual hearing. Therefore, teaching in Nigeria's law faculty must embrace COVID-19 pandemic compliant and modern teaching methodologies like online lectures, submission of online assignments within a specific time frame, online examinations and power point interactive session, so that the chances of community spread of this deadly virus will be drastically reduced. Experience shows that presently, this is obeyed more in breach than observance for reasons not unconnected with poor funding and inadequate medical and public health awareness. The following represent some of the structural or fundamental challenges to legal education in Nigeria that need to be redressed quickly in the COVID-19 and expected post COVID-19 era although they are not discussed in no order of importance.

#### **Abandonment of Legal Education by the Stakeholders and Owners of the Profession**

Lawyers and Judges are the owners and stakeholders of the legal profession. The average lawyer is too quick to suggest that there is need to raise the standard of legal education in Nigeria as the standard is too poor and too weak. But it may be asked, what have the lawyers and Judges done to improve the quality of legal education in Nigeria? It may not be out of place to say that most lawyers do not visit their universities where they trained as undergraduate law students as soon, they graduate from the place. To this end, Lawyers and Judges must learn to give back to their Alumni and cherished profession via public lectures, endowment of chairs, award of prizes and scholarships in courses, general mentorship and trainings. A situation where because of fund constraints, University Convocations are no longer held regularly or as and when due to reward and recognise graduating students that excelled in their examinations leaves much to be desired as it contributes to lack of hunger for excellence amongst students.

#### **Absence of Continuing Legal Education in order to remain 'Worthy in Character and Learning' plus 'Fit and Proper Person'**

A lawyer, properly so called, will acquire four attributes in the course of his legal education in the University and Nigerian Law School. To graduate from the University, he is certified 'worthy in character and learning' alongside others that pass through the University system. After a successful course of study at the Nigerian Law School, the lawyer is called to the Bar by the Body of Benchers as 'a fit and proper person'. A community reading of these attributes ('fit and proper person' and 'worthy in character and learning') mean that at all material times, the lawyers' integrity, character and learning are and remain in issue. Sadly, because of societal pressure and economic challenges, not a few lawyers are able to stay 'learned' as some have either wittingly or unwittingly 'unlearned their learnedness'. Therefore, continuing legal education and constant reminder of these attributes are key either to the lawyer in equity or lawyer in practice.

#### **Proliferation of Universities, Open University and Lowering of Standard of Legal Education**

Education is a right including access to education but it does not connote proliferation or mushrooming of substandard institutions of higher learning. Every person shall have the right, at his own expense, to establish and maintain a private school or schools at all levels and of such categories and in accordance with such conditions as may be provided by law. This notwithstanding, the quality of legal education offered in higher institutions must be made to be progressively available and accessible which is presently not the case. With the experience of COVID-19 contagion, it is not in doubt anymore that physical learning in decrepit classrooms jam packed by students and having libraries stocked with obsolete books are no longer the way to go. In the light of the foregoing, the responsible Federal Government, National Universities Commission and Council of Legal Education authorities will require to revisit the decision on Open Universities and their law programmes with a view to strengthening their standard, modus operandi and curricula to entitle their law graduates to attend the Nigerian Law School. The online teaching method is also recommended to be compulsorily applicable in all public and private Universities offering law courses. At all material times, these educational institutions are to be required to maintain standards that are not inferior or compromised because a lawyer can only be as good as the system of legal education that produced him. The contemporary learning method must therefore recognise the need to be COVID-19 compliant to avoid community spread because life has no substitute.

#### **Education is not a justiciable right in Nigeria unlike other progressive jurisdictions**

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<sup>20</sup> Reuters, 'A hell out here': COVID-19 ravages rural India', <https://www.reuters.com/world/india/indias-covid-deaths-cross-quarter-million-mark-no-sign-peak-2021-05-12/> accessed 12/05/2022.

Right to education is not a justiciable right in Nigeria.<sup>21</sup> This means that the courts are precluded from giving legal force to the right as provided in *section 6(6)(c)* of the Constitution of the Federal Republic of Nigeria, 1999 as amended.<sup>22</sup> It is respectfully but forcefully submitted that this constitutional millstone must be unhinged if the standard of legal education in Nigeria is to improve. *Section 18* of the Constitution of the Federal Republic of Nigeria, 1999 as amended provides that-

(1) Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.

(2) Government shall promote science and technology.

(3) Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide (a) free, compulsory and universal primary education; (b) free secondary education; (c) free university education; and (d) free adult literacy programme.

On the contrary, *section 30* of the Constitution of the Republic of Uganda, 1995 enacts that 'All persons have a right to education'. This is justiciable because *section 20* of the same Constitution of the Republic of Uganda provides with respect to fundamental and other human rights and freedoms that-

(1) Fundamental rights and freedoms of the individual are inherent and not granted by the State.

(2) The rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.

In South Africa, education is an enforceable fundamental right under the Bill of Rights found in Chapter 2. Under *section 29(1)* of the Constitution of the Republic of South Africa, 1996 it is expressly provided that 'Everyone has the right-

(a) to a basic education, including adult basic education' and with respect to higher education (b) to further education, which the state, through reasonable measures, must make progressively available and accessible.'

Additionally, *section 29(3)* of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to establish and maintain, at their own expense, independent educational institutions that-

(a) do not discriminate on the basis of race;

(b) are registered with the state; and

(c) maintain standards that are not inferior to standards at comparable public educational institutions.

In Kenya, education is a fundamental right and it is protected as justiciable under the Kenya Bill of Rights found in its Chapter Four. Precisely, *article 43(1)(f)* of the Constitution of Kenya, 2010 enacts that 'every person has the right to education'. Furthermore, *article 53(1)(b)* provides that children are entitled to free and compulsory basic education; while *article 54(b)* guarantees persons with disability 'the right to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person'; and under *article 55(a)*, 'a Youth shall access relevant education and training; The same is under *article 56* of the Constitution guaranteed minorities and marginalised groups. In Ghana, *section 25* of the Constitution of the Republic of Ghana, 1992 enacts among other things that-

(1) All persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realisation of that right -

(a) basic education shall be free, compulsory and available to all;

(b) secondary education in its different forms, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;

(c) higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by progressive introduction of free education;

(d) functional literacy shall be encouraged or intensified as far as possible;

(e) the development of a system of schools with adequate facilities at all levels shall be actively pursued.

(2) Every person shall have the right, at his own expense, to establish and maintain a private school or schools at all levels and of such categories and in accordance with such conditions as may be provided by law.

The above comparative excursions into the protection of the right to education under the national constitutions of Uganda, South Africa, Kenya and Ghana serve to illustrate that the challenge of poor legal education in Nigeria

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<sup>21</sup> This was the decision in *Okogie v A.G. Lagos State* (1981) NCLR 2187. Note however that where the National Assembly enacts a law on any section or sections of Chapter 2 of the 1999 Constitution of Nigeria as amended, such section(s) shall become automatically enforceable. By implication, the Courts will therefore have unrestricted power to hear such a matter brought before it for determination. Also, an aggrieved party may proceed to court for the enforcement of his/her rights. See generally, *Legal Defence and Assistance Project (LEDAP) GTE & Ltd v Federal Ministry of Education & Anor* (Judgment of 15/3/17 in Suit No. FHC/ABJ/CS/978/15, A - G, *Ondo State v A - G Federation* (2002) 9 NWLR (Pt. 772) 222.

<sup>22</sup> Constitution of the Federal Republic of Nigeria, 1999 as amended, CAP. C23 L.F.N. 2004.

is more structural than superficial and there can only be some light at the end of the tunnel when the needful is done by making education a justiciable right under the Constitution. The Supreme Court of Nigeria in *FRN v Osahon*<sup>23</sup> held clearly that the Constitution of any country is the embodiment of what a people desire to be their guiding light in governance, their supreme law, fountain of all their laws. Compared to the justiciable constitutional guarantees of education in other jurisdictions that were considered herein, it can only be expected that the Nigerian Constitution as the supreme law of the nation ought to grow as the nation grows in line with the pronouncement of the Supreme Court in *Oyewunmi v Ogunesan*.<sup>24</sup>

## 5. Conclusion and Recommendations

The necessity for a paradigm shift in the way and manner legal education is undertaken during the deadly and in post COVID-19 era cannot be over exaggerated. Sadly, there is no cure in sight and no one knows how long the COVID-19 pandemic will last and how severe the pandemic may resurface both in Nigeria and across the globe. In the justice sector, innovations to aid virtual hearing and remote justice have been introduced, thus reducing, if not completely eliminating, physical contacts between lawyers, litigants, judges and judiciary staff.<sup>25</sup> These drastic measures became important in view of the fragile state of the nation's health systems, the disruption to the delivery of vaccines, and the lack of compliance with the extant public health measures and social measures contained in the COVID-19 Health Protection Regulations 2021.<sup>26</sup> A resurgence of COVID-19 will engender renewed limitations on mass gatherings with obvious adverse implications for learning in higher institutions, nay legal education, which involves many students and lecturers from diverse backgrounds and having different health conditions sitting and learning under one roof with heightened chances of community spread of COVID-19. By the end of 2020, it was recorded that there is a total of 170 Universities in Nigeria.<sup>27</sup> In early 2021, additional provisional licences were presented to 20 new private Universities approved by the Federal Executive Council. So far, there are 38 Universities that offer Law as a course of study in Nigeria. Many more Universities offering Law as a course of study are definitely in the offing even as the Nigerian Law School now has six different campuses located at Abuja, Lagos, Enugu, Kano, Yenegoa and Yola to train teeming number of Law graduates aspiring to be called to the Bar. These mean more student enrolments in the legal education sector. Sadly, the standard and quality of higher education in Nigeria keep dipping and plummeting. This being the case, the future of legal education in Nigeria is definitely threatened and only a technology driven, less physical contact dependent system of impartation of legal knowledge consistent with the earlier suggestions made herein and compliant with the various public health measures put in place under the health protection regulations will suffice. This is axiomatic if there will be a 21<sup>st</sup> century and COVID-19 era compliant legal education in Nigeria. A new normal is possible!

Despite the humungous challenges confronting legal education in Nigeria and the devastating effects of COVID-19 pantheon, there are still great prospects for qualitative legal education in Nigeria. Going forward, the following are suggested as some of the feasible options to improve on the quality of legal education in Nigeria-

**Increased and appropriate funding of Universities:** This will enable the institutions to fund their academic programmes and equip the Law Faculties with modern lecture halls, moot courts, up-to-date library containing current textbooks, law reports, journals, e-resource materials and high-tech equipment that will provide the basis for sound legal education. The Federal and State governments should allocate more funds to their various Universities so that these institutions can be more effective in their day-to-day operations. Besides, increased and adequate funding will serve to arrest the increasing recorded cases of brain drain in the academic and professional sectors.

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<sup>23</sup> (2006)10 NWLR (Pt. 674) 264.

<sup>24</sup> (1996) 3 NWLR (Pt. 137) 182.

<sup>25</sup> See for instance National Judicial Council, 'Covid-19 Policy Report: Guidelines for court sittings and related matters in the Covid-19 period', see <https://njc.gov.ng/30/news-details> accessed 11/05/2022; and Federal Republic of Nigeria, 'Federal High Court of Nigeria Practice Directions 2020 for the Covid-19 period', <https://thenigerialawyer.com/wp-content/uploads/2020/05/PRACTICE-DIRECTION-2020-FOR-Covid190001y.pdf>, accessed 11/05/2022. Note that remote justice system was confirmed to be constitutional by the Supreme Court in the cases of *Attorney General of Lagos State v Attorney General of the Federation & Anor* (Unreported) Suit No. SC/CV/260/2020, (ruling delivered on 14/7/20) and *Attorney General of Ekiti State v Attorney General of the Federation* (Unreported) Suit No. SC/CV/261/2020, ruling delivered on 14/7/20).

<sup>26</sup>Section 4 of the Quarantine Act, CAP. Q, Laws of the Federation of Nigeria 2010. See also COVID-19 Health Protection Regulations 2021.

<sup>27</sup>The distribution is as follows: Federal Universities 43; State Universities 48; and Private Universities 79. See Statista, 'Number of Universities in Nigeria as of 2020, by ownership', <https://www.statista.com/statistics/1130701/number-of-universities-in-nigeria/> accessed 14/04/2022.



**Balanced student to lecturer ratio and strict obedience to admission quota:** Churning out half-baked law graduates because of commercial and profit motives must stop. Universities must keep to their Law Degree admission quota and those that default should be blacklisted. The Council of Legal Education must increase its oversight and accreditation of Law Faculties of Universities to ensure strict compliance with set standards and prevent cutting corners.

**Adequate infrastructural facilities:** work environment and offices for the lecturers and the learning environment must be conducive. This again is tied to increased and adequate funding plan already identified and addressed above. In lieu of improved funding, the need to grant autonomy to public Universities cannot be overemphasised as this will enable the institutions amongst other things devise ingenious means to raise needed funds to run programmes consistent with the twin ideal goals of enhancement of quality of education and achievement of academic excellence.

**Information, Communication and Technology driven and COVID-19 compliant lecture methods:** Online lectures and examination modes and models should be compulsorily adopted to suit contemporary realities brought about by the resurgence of the deadlier variants of COVID-19. Application of remote or virtual learning methods in legal education is the way to go. The Nigerian courts have reacted reasonably to the dangers posed by human-to-human contacts in the spread of the deadly COVID-19 even as the Supreme Court has upheld the constitutionality of virtual hearing and remote justice system.<sup>28</sup> According to Akpata,<sup>29</sup>

If there is one thing the COVID-19 has taught us, it is that we can no longer afford to pay lip service to the issue of legal technology and the need to leverage the use of technology to facilitate access to justice in Nigeria. Thankfully, we have seen innovative solutions proposed by the Honourable Attorney General of the Federation ('AGF') as well as the guidelines released by the National Judicial Council and the practice directions from various heads of court on how the justice system must continue without delay in the wake of the COVID-19 pandemic.

This commendable revolution and innovations on remote justice being recorded in the court system across Nigeria must be extended without further delay to legal education to save lives. Prevention, they say, is better than cure.

**Improved academic performance and diversification of lawyers' curricula to include training on leadership, governance and patriotism:** Any consideration for future legal education in Nigeria must not omit the need for greater diversity in the curriculum of Faculty of Law specifically and in the legal profession generally. The emerging COVID-19 era legal education must be designed to meet the demands of the 21st century legal practice. Under the Nigerian constitution creating and donating functions to the legislature,<sup>30</sup> executive<sup>31</sup> and judiciary<sup>32</sup> as the three arms of government, lawyers are entrusted exclusively with judicial powers. This clearly means that lawyers occupy a pride of place in the Nigerian leadership space and as such the curriculum for legal education must be flexible and broad enough to inculcate core issues of leadership, governance and patriotism aside arid principles of law. Hence, 'a lawyer of men should know much of life and human nature, he should be a novice in nothing and wide-minded in all things. He may not be a genius, but must be ripe in broad knowledge and general experience. If he is these, and he fails, it will be no fault of his own'.<sup>33</sup> According to Ajuyah, 'one major fallout of the gaps created in the present deteriorating legal education is unemployment for young lawyers who are now placed in quandary as they cannot compete globally or enjoy labour mobility with their limited knowledge in paper qualification. Law is not purely a professional skill confined to courts and litigants but it is a

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<sup>28</sup> See *Attorney General of Lagos State v Attorney General of the Federation & Anor* (Unreported) Suit No. SC/CV/260/2020, (ruling delivered on 14/7/20). See also E. Emudainohwo, 'APPRAISING THE CONSTITUTIONALITY OF VIRTUAL COURT HEARINGS IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA', file:///C:/Users/user/Downloads/206730-Article%20Text-514948-1-10-20210505.pdf accessed 11/05/2022.

<sup>29</sup> Nigerian Bar Association, 'ADDRESS BY OLUMIDE AKPATA, PRESIDENT OF THE NIGERIAN BAR ASSOCIATION AT THE SPECIAL SESSION OF THE SUPREME COURT FOR THE CONFERMENT OF THE RANK OF SENIOR ADVOCATE OF NIGERIA ON 14 DECEMBER 2020', <https://nigerianbar.org.ng/sites/default/files/2020-12/NBA%20President%20-%20Address%20at%20Special%20Session%20of%20Supreme%20Court%20Conferment%20of%20SAN.pdf> accessed 10/05/2022.

<sup>30</sup> Section 4 of the Constitution of the Federal Republic of Nigeria, 1999 as amended, CAP. C23 L.F.N. 2004.

<sup>31</sup> Section 5 of the Constitution of the Federal Republic of Nigeria, 1999 as amended, CAP. C23 L.F.N. 2004.

<sup>32</sup> Section 6 of the Constitution of the Federal Republic of Nigeria, 1999 as amended, CAP. C23 L.F.N. 2004.

<sup>33</sup> J.W. Dovan, 'Tact in Court by Judge J.W. Donovan (1915)', available at <https://www.scribd.com/document/32237491/Tact-in-Court-by-Judge-J-W-Donovan-1915> accessed 18/04/2022).

social science which reflect social ethos'.<sup>34</sup>With the dreaded COVID-19, the days of analogue, technistic and mechanical lawyering are over. Digitally aligned, multi-disciplinary and creative legal education is key for present-day purposes.

**Internship and mentorship programmes:** This entails practicing lawyers in diverse areas of life to commit some of their time in educating and interacting with undergraduate law students through clinical legal education, moot court trials and internships for a specific period of time before graduating from the University.

**Continuing Legal Education after being called to the Bar:** Capacity building, training and retraining is very essential in the legal profession. The leadership of the Nigerian Bar Association is already doing something in this regard<sup>35</sup> but more can be done because continuing legal education is the mainstay of the legal profession.

**Justiciability of Socio-Economic and Cultural Rights in the Constitution:** Making education a justiciable right through immediate legislative dismantling of the dichotomy between Chapter II group of economic, social and cultural rights which are declared not enforceable or non-judicialized under *section 6(6)(c)* of the 1999 Constitution of Nigeria and Chapter IV group of civil and political rights which are declared justiciable or enforceable is an irreducible minimum for improved, durable and quality legal education in Nigeria.

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<sup>34</sup> C.C. Ajuyah, 'The Future of Legal Education in Nigeria', being a discussion paper presented at breakout Session of the Nigerian Bar Association, Annual General Conference, Abuja, 2015, available at [https://s3-eu-west-1.amazonaws.com/nba-agc/papers/Sessions\\_Files/Legal+Education+Session/Reviewed+THE+FUTURE+OF+LEGAL+EDUCATION+IN+NIGERIA.pdf](https://s3-eu-west-1.amazonaws.com/nba-agc/papers/Sessions_Files/Legal+Education+Session/Reviewed+THE+FUTURE+OF+LEGAL+EDUCATION+IN+NIGERIA.pdf) accessed 18/04/2022. See also C.O. Okonkwo, 'A Historical Overview of Legal Education in Nigeria', available at: <https://ssrn.com/abstract=3534848> accessed 18/04/2022.

<sup>35</sup>This entails reconstitution of the Board of the Institute of Continuing Legal Education (ICLE) charged with the responsibility for the operation of the Continuing Professional Development (CPD) programme of the NBA. See Nigerian Bar Association, 'INAUGURAL ADDRESS BY OLUMIDE AKPATA, PRESIDENT OF THE NIGERIAN BAR ASSOCIATION AT THE INAUGURATION OF THE NBA 2020 – 2022 NATIONAL EXECUTIVE OFFICERS', <https://nigerianbar.org.ng/inaugural-address-olumide-akpata-president-nigerian-bar-association-inauguration-nba-2020-2022> accessed 10/05/2022.