

## TOWARD A HOLISTIC REFORM OF LEGAL EDUCATION IN NIGERIA\*

### Abstract

*Stakeholders in the legal profession in Nigeria have on many occasions raised a concern about falling standards of the legal profession, the regressive quality of legal education, deteriorating professional ethics and weak regulatory regimes for the legal profession as well as the threats that technology and globalization have brought to legal practitioners. These varying concerns were re-echoed in the occasions of the 2019 Nigerian Association of Law Teachers' conference held in Ibadan and the just concluded Nigerian Bar Association Conference, 2019 held in Lagos. The root of these concerns was traced to failures in the regulation of the profession. This work x-rayed the varying causes of poor performance in the legal education industry and made recommendations for innovative reforms.*

**Keywords:** legal, education, profession, law, school, practice

### 1. Introduction

Historically, legal education in Nigeria originated from England. Prior to the establishment of the first university offering the study of law in Nigeria and the Nigerian law school, legal education of Nigerian lawyers was carried out in England. Legal practice in Nigeria dates back to 1876 when the Supreme Court patterned after the British courts was established in the colony of Lagos by virtue of the Supreme Court Ordinance.<sup>1</sup> The Supreme Court Ordinance provided for the admission and enrolment of barristers and solicitors called to the Bar in London, Dublin and Edinburgh by the Chief Justice to practice in Nigeria.<sup>2</sup> Also Order xvi Rule 1 of the Supreme Court (Civil Procedure Rules) authorizes the Chief Justice of Nigeria to enroll and admit as barristers and solicitors any person who is qualified to practice as a barrister in England or Ireland or as an advocate in Scotland.<sup>3</sup>

By 1880 the first Nigerian born lawyer, Mr. Christopher Alexander Sapara-Williams qualified to practice as a barrister in England, returned to Nigeria and enrolled to practice in the Lagos colony.<sup>4</sup> The 1876 Supreme Court ordinance further empowered the Chief Justice to grant licenses to laymen who though not qualified as barristers or solicitors were deemed sufficiently knowledgeable in law by reason of their exposure to legal practitioners.<sup>5</sup> This provision allowing laymen to practice was later abolished by a 1914 Supreme Court Ordinance. Thus following the 1914 Ordinance, only qualified lawyers were allowed to practice in the amalgamated Nigeria. However, these lawyers were all trained in overseas. Further, British trained lawyers had no law degrees as no British university was offering a law degree until 1945 when the first law degree awarding University was established in the University College, London.<sup>6</sup> Thus throughout colonial Nigeria, there existed no institution for the formal training of lawyers in Nigeria.

This practice whereby barristers and solicitors qualified to practice in England were licensed to practice in Nigeria was defective for various reasons; First a lawyer is qualified in England to either practice as a solicitor or as a barrister, whereas when he returns to Nigeria, he practices as both even though he was not trained to practice as both. Secondly such an English trained lawyer will not be acquainted with the Nigerian legal systems especially with regard to her indigenous laws. It was these defects that gave rise to the recommendation of the Unsworth's Committee<sup>7</sup> for the establishment of a faculty of law at the University College, Ibadan, as well as a law school in Lagos to be known as the Nigerian law school, for the vocational education of Nigerian lawyers. The Committee

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<sup>1</sup> Supreme Court Ordinance no.4 of 1876

<sup>2</sup>S.71, *ibid.*

<sup>3</sup> Supreme Court Ordinance no. 43 of 1948, Cap. 211

<sup>4</sup>T. O. Elias, *Makers of Nigerian Law*, (London, Sweet and Maxwell 1965)p.30

<sup>5</sup> See section 74 Supreme Court Ordinance no.4 of 1876.

<sup>6</sup>T.O. Elias *op. Cit.*

<sup>7</sup>The Committee was headed by Mr E.I.G. Unsworth, a Queens Counsel (QC), and Attorney General of Nigeria. See the Report of the committee on the future of Nigerian legal profession (Lagos, Federal Government Press, 1959) p.1. Following the Unsworth committee, another Committee headed by the legendary Master of Rolls, Lord Denning, M.R. was also set up in 1960. This Committee had the mandate of reviewing how much the training offered in the various Inns of Court satisfied the increasing needs of African countries in terms of course content, procedure, and future legal development. It was the recommendations of the two committees that culminated to the enactment of the Legal Education Act of 1962, The Legal Practitioners Act of 1962, The Council of Legal Education Act, 1962 and the establishment of the Nigerian Law School in 1962, etc.

further recommended the minimum qualification for admission to law practice, and the establishment of a Council of Legal Education with the mandate among others to regulate legal education and practice in Nigeria.<sup>8</sup> All these recommendations were accepted by the federal government except one.<sup>9</sup>

Therefore today's lawyer in Nigeria must pass through a faculty of law of a Nigerian University approved by the Council of Legal Education after which he shall be admitted for one year vocational training at the Nigerian Law School established pursuant to the Legal Education Act.<sup>10</sup> Where the prospective lawyer chooses to study law in a foreign university, he must first take and pass Bar Part One examination before joining the students who studied in the law faculties of Nigerian Universities for the Bar Part 11 examinations at the Nigerian Law School. All prospective lawyers must however take and pass the Bar part 11 examinations in the Nigerian Law School and further found worthy in character to be issued with a certificate of call to the Bar by the Council of Legal Education which qualify them to be called to the Bar by the Body of Benchers and an enrolment as barristers and solicitors of the Supreme Court of Nigeria at the Nigerian Supreme Court.<sup>11</sup>

The first stage of legal education that is educational training at an approved law faculty is expected to give the prospective lawyer, a broad and general knowledge of law and exposure to other disciplines. The curriculum is to be designed to stimulate the student into a critical thinking and analysis of the socio-economic and political systems around him as well as the operation, relevance and efficacy of the various legal rules to the society.<sup>12</sup> It has been stated thus:

Academic law should equip the lawyer with the means of finding out what the law is whenever he needs to.

This means that at the academic stage, legal education must focus sharply on the search for principles. It should help the students' intellectual process- research analysis, presentation, communication, independence of mind, and courage to criticize what is acceptable, to construct what is necessary for new situations, new developments.<sup>13</sup>

To achieve these forms of knowledge acquisition, students must be exposed to primary sources of legal knowledge like law reports, statutes, books and journals. These will include a shift from lecture dominated teaching method to students based method.

The second stage will be the acquisition of vocational or practical application of law at the Nigerian Law School wherein the Nigerian trained law graduate will spend a period of one year. The primary aim of the vocational training is to help students adapt their academic knowledge to practical experience. This is achieved through the learning of the practical skills and techniques required for law practice.

The council of legal education pursuant to its mandate for the legal education of lawyers who wish to practice in Nigeria made a Guidelines and Conditions for the establishment of law faculties by any universities in Nigeria. Under the guidelines universities seeking to establish law faculties must secure the approval of the National University Commission having met a stipulated minimum academic requirement (BMAS) as well as the guidelines and conditions for the establishment of law faculties as defined by the Council of Legal Education.<sup>14</sup>

Today the incessant calls by stakeholders for reform of the Nigerian legal education is a manifest evidence of the stagnation, decay and corruption that has bedeviled this sector and the failure of the Council of Legal Education to live up to its mandate. The unique role of the legal profession in a contemporary society is one that demands

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<sup>8</sup>*Ibid.*

<sup>9</sup>The recommendation for the establishment of a faculty of law was not accepted by government. However, in 1961 the University of Nigeria UNN, established the first Faculty of Law. See Joe-Kyari Gadzama (SAN) 50 Years of Legal Education in Nigeria: A Critique, Nations Newspaper, Feb.11, 2014.

<sup>10</sup>Presently, the Legal Education (Consolidation, etc.) Act, Chapter 206, Laws of the Federation of Nigeria

<sup>11</sup>Legal Practitioners Act Cap. L.11 LFN 2010, S.7(1a)

<sup>12</sup>See the NUC BMAS, April 2007

<sup>13</sup>Lord Sankey, cited in L.C.B. Gower, *English Legal Training* (1950)13 MLR 137 at 161

<sup>14</sup>See generally the Nigerian Law School: Guidelines and Conditions for the establishment of faculties of law in Nigeria., Legal Education (consolidation, etc) Act Cap L10, Laws of the Federation of Nigeria (LFN) 2010, the National Universities Commission Act Cap N81 Laws of the Federation of Nigeria (LFN) 2004

See also, section 10(1) of the Education (National Minimum Standards and Establishment of Institutions) Act, Cap. E3, Laws of the Federation, 2004 This Act vest in the NUC very wide and enormous powers with respect to the supervision and regulation of university education in Nigeria.

periodic assessments and adaptations to meet the demand of the ever evolving globalised world. The present era in the legal profession is an era of fluidity. Globalization is fast changing the global market. Trade liberalization agreements and *e-commerce* have taken over the centre stage. Innovative technologies have threatened the traditional means of offering legal services. Lawyers must be prepared to embrace these fast trend developments or be knocked out of the market stage.

On the other hand, the extant legal framework for legal education in Nigeria remains archaic, stagnant and dormant. Law training and practice must keep pace with the ever evolving global market. The rapidity of the change in the demand of legal services occasioned by innovative technology is a call for a proactive and flexible adaptive approach to legal education, if lawyers are to remain relevant in the nearest future. The need for reform is therefore now. This paper therefore considers the myriads of factors militating against a robust legal education in Nigeria and proffered workable recommendations.

## 2. Challenges to Legal Education in Nigeria

**Paucity of Funding of Legal Education:** A Law faculty is expected to meet the minimum academic standard and guidelines established by the National University Commission and the Council of Legal Education. These include, having a minimum of two departments with a minimum of 5 full time academic staff in each of the two departments. Under the benchmark minimum academic standards (BMAS) for law program the staff mix should meet the staff pyramidal structure. The faculty should have a physical facility of a separate law faculty complex, with enough classrooms, seminar rooms, auditorium, a functional moot court and mock registry, a completely ICT compliant law library with relevant up to date books, as well as an *E-library* with up to date subscription of current legal data. A separate staff library detached from the main library for the sole use of the academic staff.<sup>15</sup> The faculty curriculum must conform to the NUC BMAS<sup>16</sup> as well as the Council of Legal Education Guidelines and Conditions with emphasis on clinical legal education.

To meet up with the above listed benchmark will require funding on the part of government and other stakeholders. Unfortunately governments have reputation of underfunding. The incessant strikes by members of the academic and non academic staff of the universities are clear evidence of government insensitivities to the deplorable conditions of the universities including Law Faculties.

A typical law faculty of a state university is overcrowded with students' population being above the class capacity and above the BMAS<sup>17</sup> Students' lecturer ratio of 1: 30. In some law faculties, students are kept standing during lecture period as a result of lack of adequate classroom seats and desks. State universities have the penchant for admitting more than their admission Quota owing to pressure from the governments and the desire to raise extra revenues through payment of tuition fees by these students which is needed for the payment of staff salaries. Few private universities offering legal education is very expensive and only very few privileged students can afford them. On the other hand it may be risky to completely trust the law graduates of such universities as it may be difficult for such institutions to fail their students even when necessary. It is worth noting that among more than 40 number of law faculties in Nigeria, only one faculty; University of Lagos state that has acquired full accreditation status. Majority of the law faculties only have either provisional or interim accreditation while some others have had their accreditation withdrawn.<sup>18</sup>

**Lack of adequate and qualified staff:** Most law faculties of the Nigerian universities are not able to meet up with the BMAS<sup>19</sup> requirement of 1 teacher to 30 students' ratio. Few law faculties who are able to meet up with these requirements of staff population may however not possess staff with the requisite qualifications and experience. For example the Council of Legal Education has stipulation of about eight core subjects that must be taught by senior lecturers.<sup>20</sup> This requirement is hardly met by most law faculties. Where the required staff strength is not maintained

<sup>15</sup>See the National University Commission Benchmark Minimum Academic Standard, (NUC BMAS) April 2007

<sup>16</sup>*ibid*

<sup>17</sup>*ibid*

<sup>18</sup> Full accreditation indicates that the faculty has fulfilled all requirements under the guidelines and conditions, provisional means that the faculty has substantially complied while interim means that the council has only given approval for the commencement of the faculty subject to future accreditation.

See <https://nigerianinfopedia.com/faculties-of-law-in-nigeria-accredited-approved/> (accessed 16/09/2019)

<sup>19</sup>Benchmark Academic Standard set up by the National University Commission

<sup>20</sup>M.O. Onolaja, Problem of Legal Education in Nigeria,(unpublished paper), available at;

the negative effect manifests on the quality of law graduates. In a system where undue emphasis is placed on acquisition of higher degrees, lecturers without the requisite experience in legal education and experience are employed by the universities. The consequence is that these lecturers dish out test books and some even use their old and mostly obsolete notebooks to read out to the students. Some other lecturers who do not even possess the minimum academic qualification, but who know the powers that be, are employed in certain climes. An unqualified teacher will eventually tell on the quality of the students produced by the system. It is high time emphasis is placed on practice or vocational experience of law teachers so that in addition to the requisite degree, a law teacher should be expected to show evidence of a minimum experience in law practice. Where a law teacher does not practice what he teaches he may be archaic, since dynamism is the art of law practice.<sup>21</sup> The need for a law teacher to have a good measure of experience has been emphasized by several notable individuals in the profession. The former chief justice of the United States of America, Justice Burger had once stated: 'The medical profession does not try to teach surgery simply with the books; more than 80 percent of all medical teaching is done by practicing physicians and surgeons. Similarly, trial advocacy must be learned from trial advocates'.<sup>22</sup>

Thus, clinical legal education among all courses in the law faculty ought to be handled by teachers who are experienced in legal practice. This is essential if the desire of legal education is to produce lawyers with practical knowledge of law. Unfortunately however, most clinicians are not familiar with real classroom experience.

**Corruption, Favoritism and Nepotism:** These triune evils have in their pervasiveness permeated the fabrics of Nigerian society, law faculties inclusive. It is no more a secret that parents and guidance encourage and promote the special centre syndrome where students in their quest to secure university education procure WAEC<sup>23</sup> and NECO<sup>24</sup> certificates. The proprietors of these centres arrange for impersonators to sit for their candidates and further follow it up with bribing the examination officials. This same problem is being replicated with JAMB UTME.<sup>25</sup> A situation where a law student cannot express himself both in writing and in speech left much to be desired. This has led to the incessant battle between the managements of some universities and that of JAMB over the conducting of screening test for applicants seeking for admission into the universities. The screening of students who have met the minimum academic requirement having passed their WAEC, NECO and JAMB UTME examinations indirectly questions the authenticity of such examination results. Students who gained admission to read law without the basic qualification end up being an anathema in the system. These students resort to all sorts of misconduct; *sorting*,<sup>26</sup> blackmailing and intimidation of lecturers, and employment of politicians and some highly placed individuals in the society to influence the lecturers and the school management to pass them. There are many evidences of law graduates who failed to pass the Bar final examinations after several attempts. The question then begging for answer is, how did these students manage to pass through the universities successfully? Other forms of corruption include the practice whereby some students who are employed will without first obtaining study leave from their employers be admitted to study law. These classes of students will suffer academic malnutrition as they will be missing their lectures and as result will resort to *sorting*<sup>27</sup> and mounting other forms of undue influence on the system. This does not augur well to legal education system.

**Inefficiency on the part of Council of Legal Education and their Accreditation team, including Corruption:**

As a form of regulation the Council of Legal Education conducts periodic accreditation of law faculties. The question then is how far reaching are these accreditation exercises?, what are the mandate of each of the accreditation team sent to law faculties, and what process is put in place to verify their final reports?, what are the actual benchmark employed by these teams and to what extents are they employed across board to each of the different law faculties? How often are periodic review of the accreditation standards reviewed to ensure its

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[https://search.yahoo.com/yhs/search?hspart=trp&hsimp=yhs-001&type=63201\\_060817&p=M.O.+ONOLAJA%2C+Problem+Of+Legal+Education+In+Nigeria](https://search.yahoo.com/yhs/search?hspart=trp&hsimp=yhs-001&type=63201_060817&p=M.O.+ONOLAJA%2C+Problem+Of+Legal+Education+In+Nigeria)(accessed 8/09/19)

<sup>21</sup>O. B. Akinola, 'Practical Perspectives towards the right of law lecturers to private practice', *Nigeria journal of humanities and social sciences* (IOSR-JHSS) vol. 23, Issue 11, ver 3., Nov. 2018, 32-41, <http://www.iosrjournals.org>

<sup>22</sup>Burger, the Special Skill of Advocacy: Are Specialized Training and Certification of Advocates Essential to our System Of Justice? 42, *FORDHAM L. REV.* 227(1973)at 232

<sup>23</sup>West African Examination Council

<sup>24</sup>National Examination Council

<sup>25</sup>Jamb Matriculation Board Unified Tertiary Matriculation Examination.

<sup>26</sup>A nickname for academic corruption in tertiary institutions of Nigeria, see

<https://allafrica.com/stories/200504280524.html>,<https://nigerianinfopedia.com/sorting-nigerian-universities-corrupt-lecturers/> (accessed 17/09/2019)

<sup>27</sup>*ibid*

conformity with internationally best practices and what penalties are applied to unqualified law faculties? And finally what role can the Council of Legal education play to facilitate increased funding of these law institutions for the overall optimum performance of legal education in Nigeria?

Council of Legal Education visitation teams sometimes fail to conduct thorough inspection of faculty facilities. Most times tips are offered to these men by the university management making them to conduct half hazard inspection and manipulating their findings in favour of the University. Most universities, especially the states owned universities would stage cosmic shows by hiring academic staff, library books, computers and other pressing facilities which they actually do not have just for the purpose of influencing the report of the accreditation team. These hired facilities are usually return to their respective owners immediately after the visitation team has gone. This system of corruption ends up leaving the university system deprived of basic education facilities thereby undermining the real essence of regulation of legal education as the faculty continued to be left without adequate manpower, malnourished and underfunded. A regular unannounced visitation arranged by the Council of Legal Education in a manner that even the members of the visitation team do not know where and when they would be sent to visit may assist in increasing the efficacy of visitations and its impact on the law faculties.

In practice, admission quota is allotted to the law faculties by the law school under the directive of Council of Legal Education, providing for the number of students of the concerned faculty that would be admitted to the law school. This quota system is expected to regulate the students' intake by these faculties. It is however of open knowledge that this practice has failed to check excessive intake or enrollment of students to the faculties of law of Nigerian universities.

It is also worth to note that the NUC BMAS 2007<sup>28</sup> recommended for a periodic review of the law faculty curriculum every five year. This recommendation has only existed in paper. It is even most pathetic when one considers the fact that even the NUC BMAS<sup>29</sup> in use today is very much out of date as it has been in use since 2007 till date, a periodic of 13 years.

#### **Constant Interruption of Ongoing Legal Education Occasioned by Incessant Strikes by Lecturers**

Constant interruption of studies occasioned by strike is like constant power outages during a surgical operation of patient by a medical surgeon. It is dangerous and undermines the success of legal education. Part of its effect is the constant interruption of the learning process; it inadvertently increases the cost of legal education on the part of the student since it over stretches the academic period or sometimes abridges the actual lecture period to the detriment of the students. Its resultant effect on the production of half-baked graduate need not be overemphasized.

#### **Deficiency and poor infrastructure on the part of the Nigerian law school**

On the part of the Nigerian law school, while endeavoring to develop the vocational skill of the law graduate, the law school should be prepared to bridge the gap between the academic study of law and the actual law practice. The law school has the onerous task of remedying every deficiency of the law graduate, to ensure that he or she is qualify to practice law at the end of the law school training. On how ready the law school is to shoulder these responsibilities is better examine from its product over the years. Evidence indicates that even the law school itself has suffered underfunding resulting in decayed infrastructure. In some campuses of the Nigerian Law School, a lecture theatre built for 200 students sitting capacity harbours over 500 students.<sup>30</sup> Absence of information technology, tools for teaching and learning, libraries that lack up-to-date relevant textbooks and journals and lack of adequate functional moot and mock facilities are part of the challenges plaguing the Nigerian law school campuses.<sup>31</sup>

#### **Lack of efficient continuing legal education**

It is worth mentioning that part of the mandate of the Council of Legal Education is to ensure continuing legal education of the members of the Bar. While the idea behind the creation of mandatory continuing legal education is

<sup>28</sup> *op. cit.*

<sup>29</sup> *ibid*

<sup>30</sup> Mohammed Shosanya and John Chuks Azu Appraising Nigerian Law School at 50, Daily Trust, Dec 3, 2013. Available at [www.dailytrust.com.ng/appraising-nigerian-law...](http://www.dailytrust.com.ng/appraising-nigerian-law...) (accessed 12/09/2019)

<sup>31</sup> *ibid*

excellent, the Program had no statutory backing. Further, the modalities put in place for its implementation have failed to ensure its effective and efficient implementation. This is evidence in the comatose state of this program at present. The few continuing legal education programs conducted in the few past years were concentrated on the major cities and moreover were very expensive for an average legal practitioner to participate. It appeared the program was hijacked by a clique of members of the bar for monetary gains, thus its exorbitant registrations fees. Moreover there was no clear and transparent criterion for identifying and procuring the resource persons. These breed suspicion among practitioners on the true intention of the implementations of the program. An effective form of continuing legal education is essential. Continuing education is an acceptable practice in most jurisdictions for the purpose of professional capacity building. In UK for instance, a barrister is assessed annually for the purpose of issuing practicing licence.<sup>32</sup> Also in most states of the United States of America, participation in continuing legal education is a requirement for maintaining practicing licence by Attorneys.<sup>33</sup> This requirement is also applicable in Canada.<sup>34</sup>

### **Lack of adequate pupillage by the new wigs**

Pupillage is an integral part of legal education in England since over a century ago when law practice began. Today pupillage remains an integral part of legal education in England. Pupillage helps the young and fresh practitioner to acquire the needed experience for law practice. It equips the freshman with the required skills of advocacy and client relationship that prepares him for the challenges of legal practice. In Nigeria at present, there is no formal process put in place to encourage and enhance an effective and result oriented pupillage practice. New wigs fresh from law school move in to run their private practice as a result of harsh economic climate. This practice however led to the circulation of half-breed legal practitioners. It is heartwarming that the proposed Bill<sup>35</sup> for the reform of the legal profession in Nigeria presently before the National Assembly has introduced a mandatory two-year pupillage for lawyers immediately after their call to the Nigerian bar.<sup>36</sup> We have critically evaluated the major challenges to an effective and progressive legal education in Nigeria. We shall proceed to take a closer look on the extant legal framework for legal education in Nigeria with a view to proffering legal reforms.

### **3. The Legal and Institutional framework for Legal Education and practice in Nigeria**

The Legal Practitioners Act, 1975<sup>37</sup> and the Legal Education (Consolidation etc) Act 1976<sup>38</sup> are the statutory regulators of legal education Nigeria. The Legal Practitioners Act came into effect on May 16, 1975, It provides for a body to be known as the General Council of the Bar (referred to as "the Bar Council") which shall be charged with the general management of the affairs of the Nigerian Bar Association (subject to the Constitution of the association) and with any other functions that may be conferred on it.<sup>39</sup>

The Act, though not strictly enacted to regulate the training of lawyers, however has provisions partly catering for legal education and training. In this regard, it provides that: ‘There shall be a body of legal practitioners of the highest distinction in the legal profession in Nigeria to be known as ‘the Body of Benchers’ which shall be responsible for the formal call to the Bar of persons seeking to become legal practitioners...’<sup>40</sup>Section 2(1) of the

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<sup>32</sup> See [www.ccbe.eu/fileadmin/speciality\\_distribution/...](http://www.ccbe.eu/fileadmin/speciality_distribution/...)(visited 18/11/19)

<sup>33</sup>[ballotpedia.org/Continuing\\_legal\\_education](http://ballotpedia.org/Continuing_legal_education) (visited 18/11/19)see also [www.americanbar.org/groups/cle/](http://www.americanbar.org/groups/cle/) (visited 18/11/19)

<sup>34</sup> See also [iso.ca/lawyers/enhancing-competence/continuing...](http://iso.ca/lawyers/enhancing-competence/continuing...)(visited 18/11/19)

<sup>35</sup> Legal Profession Regulation Bill; the Bill seeks to repeal the Legal Practitioners Act and the Legal Education (Consolidation etc.) Act and enact a more comprehensive single legislative framework for legal practice and education – the Legal Profession Regulation Bill. The Nigerian Bar Association Legal Profession Regulation Review Committee (NBA LPRRC) was constituted on 28th December, 2016 and inaugurated on 24th January, 2017 by the then President of the Nigerian Bar Association, A.B. Mahmoud SAN, OON, with the core mandate of reviewing the current regulatory objectives and the regulatory architecture of the legal profession and advising on its suitability to meet the current requirements for a robust, responsive and independent modern legal profession in Nigeria amongst others. See Anthony Idigbe, SAN, The Future of the Legal Profession and the Regulation of Legal Practice and Practitioners, the NBA LPRRC Project, Available at:<https://nbaconference.com/index.php/presentation-papers/#1567178665238-5a6b7f6b-539c> (accessed 12/09/2019)

<sup>36</sup>Fabian Ajogwu, SAN, FCI Arb, The Future of the Legal Profession and the Regulation of Legal Practitioners, Being part of a presentation delivered at the Nigerian Bar Association’s Annual General Conference, 2019

Available at:<https://nbaconference.com/index.php/presentation-papers/#1567178665238-5a6b7f6b-539c> (accessed 12/09/2019)

<sup>37</sup>Cap. L.11 LFN 2010

<sup>38</sup>Cap L. 10 LFN 2010

<sup>39</sup>S. 1(1) and (2) of the LPA Cap. L.11 *op.cit.*

<sup>40</sup>S. 3(1) *ibid.*

Act<sup>41</sup> provides that a person shall be entitled to practice as barrister and solicitor in Nigeria if and only if his name is on the roll.<sup>42</sup> On condition for enrolment section 7 (1) provides;

a person shall be enrolled if and only if;

- (a) He has been call to Bar by the Body of Benchers; and
- (b) He produces a certificate of his call to the Bar to the Registrar of the Supreme Court.

To be called to the Nigerian Bar, the Act further provides that a person shall, (a) *be a citizen of Nigeria;*(b) *produce a qualifying certificate to the Benchers; and(c) satisfy the Benchers that he is of good character.*<sup>43</sup>

Section 4(2) however permits a non citizen who met the criteria in (b) and (c) above to be called to the Nigerian Bar, while section 4 (3) permits the Council of Legal Education to make regulation waiving the requirement of a qualifying certificate in (c) in such cases as may be determined by such regulation.

Thus the relevance of the Legal Practitioners Act to legal education can be said to be the Act' requirement of a production of a qualifying certificate as well as the requirement of 'good character.' it shall therefore be lawful for the body of benchers to make regulations bothering on the requirements of qualifying certificates and 'good character.'

On the other hand, The Legal Education (Consolidation etc) Act<sup>44</sup> is the primary legislation for the training of lawyers in Nigeria. The Act created a body to be known as the Council of Legal Education with the responsibility for the legal training of persons desiring to become members of the legal profession in Nigeria.<sup>45</sup>

By Section 1, sub (1) of the Act, the Council is a body established mainly to run the Nigerian Law School, particularly regarding policy matters and reposed with the following responsibilities;

1. Responsibility for the Legal Education of persons seeking to become Members of the Legal profession.<sup>46</sup>
2. Continuing Legal Education for legal practitioners.<sup>47</sup>
3. The issuance of qualifying certificates to persons qualified for call to the Bar.<sup>48</sup>
4. Incidental matters.

By virtue of section 2 (5) of the Legal Education (Consolidation etc)Act<sup>49</sup>, a person shall be entitled to have a qualifying certificate issued to him by the Council stating that he is qualified to be called to the Bar if;

(a) He is a citizen of Nigeria; and

(b) He has, except where the Council otherwise directs, successfully completed a course of practical training in the Nigerian law school. The basic entry requirement to the Nigerian law school is a degree in law obtained from a recognised university within or outside Nigeria.<sup>50</sup>

The Council discharges this function through the institution of the Nigerian Law School, which gives professional and practical legal education to persons seeking to become legal practitioners.

<sup>41</sup>*ibid*

<sup>42</sup>Okafor v. Nweke (2007) 10 NWLR (Pt. 1043)521 SC

<sup>43</sup>Section 4(1)(a-c) *op. cit.*

<sup>44</sup> Cap L.10 LFN *op.cit.*

<sup>45</sup> Section.... *ibid.*

<sup>46</sup> See Section 1(2) *ibid*

<sup>47</sup> See Section 3 *ibid.*

<sup>48</sup>See Section 5 *ibid*

<sup>49</sup>*Ibid.*

<sup>50</sup>Olusola Babatunde Adegbite, An Appraisal of the Standard of Nigerian Legal Education, *Ife Juris Review* (Journal of Contemporary Legal and Allied Issues, Department of Jurisprudence and Private Law, Faculty of Law, Obafemi Awolowo University, Ile-Ife, Nigeria), IFJR 2014, Part 3 (September – December)pp.6-8Available at <https://rhodes-za.academia.edu/OlusolaAdegbite> (accessed 17/09/2019)

The Council stipulates conditions that *must* be met by a university before it could be approved to establish a law faculty especially with reference to approved courses of study as well as conducting periodic assessment of the law faculties with a view to ensuring compliance with its standard.<sup>51</sup> It has also prescribed good conduct as a condition precedent for admission to the Law School and for call to the Bar.<sup>52</sup> The council has also introduced mandatory continuing legal education of legal practitioners in Nigeria (MCLE). The council has granted various accreditation statuses to various law faculties of universities in Nigeria and suspended earlier Accreditation issued to others who no longer met the requirement of the Council.<sup>53</sup>

Today stakeholders have decried the poor performance of the council with regard to its responsibilities. Others insist that the Act creating the Council is outdated and required amendment or outright replacement by a more innovative oriented legislation. There are incessant call for reform and revitalization of our law faculties. These various lamentations demonstrate the unanimity of opinion of the need for reform.

The Council of Legal Education must accept its share of the blame for the abysmal state of legal education.<sup>54</sup>

#### **4. Innovation: a Key to Reformation of Legal Education**

A holistic reform of legal education must start from a consideration of the objective of legal education<sup>55</sup>. A primary objective of legal education may simply be expressed to be; to produce a lawyer who is competent and useful to the society. Such an education should be able to inculcate to the to-be lawyer the role and functions of a lawyer to the society. It must inundate with the student of law the jurisprudential issues of the origin, development and the relevance of law in any given society. In a nutshell, the primary aim of legal education should be to produce a competent lawyer.<sup>56</sup> A competent lawyer however, can only be assured by a competent legal education. Legal education is an important factor that influences the quality of our justice delivery, and other aspects of human endeavor, as the role of a lawyer is said to be pervasive, transcending litigation where the role of lawyer is most visible to the political, economic, social as well as cultural fields. To achieve this need, a legal education must be such formed and structured to meet up with these demands. The call for the reform of legal education in Nigeria cannot be disregarded.<sup>57</sup> Responding on these onerous tasks of reforming legal education, the former Attorney

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<sup>51</sup>Such a faculty must be accredited by the CLE after meeting the requirements under the BMAS as well as meet the conditions stipulated by the National University Commission (NUC) See the Nigerian Law School: Guidelines and Conditions for the establishment of faculties of law in Nigeria

<sup>52</sup> See *Okonjo v. Council of Legal Education*, FCA/L.16/78 of 12 March 1979 (1979) Digest of Appeal Cases 28.

<sup>53</sup> See <https://nigerianinfopedia.com/faculties-of-law-in-nigeria-accredited-approved/> (accessed 12/09/2019)

<sup>54</sup>Honourable justice Niki Tobi Meeting the Needs of Profession: A View From the Bench , Nigerian Law School, Four Decades of Service to the Legal Profession , (published by the Council of Legal Education, to commemorate the 40<sup>th</sup> anniversary of the Nigerian law school Lagos., 2003)p.79

<sup>55</sup>See I.O. Agbede; 'Dynamics of Law Reform Enterprise: Nigerian Experience', *the Guardian*, Tuesday, February 3, 2004

<sup>56</sup>The word competent however is admittedly capable of varying meaning. However, in a simple expression; the word competency may be defined as an individual's capacity to perform a particular task in an acceptable manner. Thus a competent lawyer is said to be such a lawyer with the ability to analyze legal problems, perform legal research and collect and sort facts. A competent lawyer must have the requisite skills, including physical and intellectual abilities to contribute meaningfully to the community. see Marilyn J. Berger; a comparative study of British barristers and American legal practice and education 5Nw.J Int'l. &Bus. 540 (1983-84)<http://scholarly.common.law.northwestern.edu/njilb> (accessed 9/8/2019)

<sup>57</sup>Many notable stakeholders have severally laid their voices to this call for reform of legal education in Nigeria, For instance, a onetime chairman of the Council of Legal Education is reputed to have stated; 'It must be noted that the proposal for restructuring and reorganization of the Council of Legal Education and the Nigerian Law School, are geared towards improving the content and quality of the legal education in Nigerian and ensure that the legal practitioners produced by the Nigerian law school are duly equipped with requisite character and learning so that they may be better enabled to discharge their duties and responsibilities in that regard not just in Nigeria but throughout the world' cited in B. A. Burkar, *Legal Education And Challenges Of Contemporary Development In Nigeria*,[https://www.researchgate.net/publication/291598473\\_Legal\\_Education\\_And\\_Challenges\\_Of\\_Contemporary\\_Developments\\_In\\_Nigeria](https://www.researchgate.net/publication/291598473_Legal_Education_And_Challenges_Of_Contemporary_Developments_In_Nigeria) (accessed 12/09/2019) see also This day newspaper, April 10, 2013.

This position was also re-echoed by Professor A.H. Yadudu commenting on the archaic and regressive nature of legal education in Nigeria. He stated:

'After close to four decades of political independence ... the contents and methods of legal and judicial training leaves much to be desired if you care to look very closely through the curriculum of law faculties in Nigeria universities , not much has changed from what it was when law was first established as a discipline some three decades ago. The core subjects have remained unchanged. You are likely to find a few cosmetics changes introduced in the number of departments and a few new offerings'.



General AGF and Minister for Justice, Chief Bayo Ojo stated; ‘We need to reposition the legal profession to meet the challenges of the 21<sup>st</sup> Century. The profession must strengthen its capacity to produce lawyers who are capable of meeting the human resources needs of the country in the emerging fields, biotechnology, law, international trade law and policy, environmental sustainability and so on’.<sup>58</sup> Thus the need for reform cannot be over emphasized. And it is now. To proffer workable and realistic recommendations for an effective and responsive legal education in Nigeria we shall consider some other progressive jurisdictions.

### 5. Innovation: Lessons from Other jurisdiction

Before we proffer recommendation that can address the challenges of legal education in Nigeria, it is pertinent we take a look at what has been done in jurisdictions like USA, United Kingdom and India. In USA, national accreditation body for legal education is the American Bar Association.<sup>59</sup> However, each University is allowed to operate its own law school.<sup>60</sup> The ABA<sup>61</sup> has the power to grant either provisional or full accreditation. A provisional accreditation is available to a newly established law school after one year of its operation. A law school granted provisional accreditation may remain in provisional status for a period not exceeding five years. A limited intermittent site evaluation visitation is made to the institution within the first year of its operation and another in the third year. In addition, after the provisional accreditation the ABA visitation Committee shall conduct a site evaluation visitation to the institution in the second year of its operation, another in the fourth year and finally in the fifth year. Thus an evaluation visitation is conducted yearly. Where after the fifth year evaluation, the ABA Council shall review the findings, conclusion and recommendation of the visitation team and if satisfactory shall grant full accreditation to the law school.<sup>62</sup> In the United Kingdom, an aspiring barrister will pass through three stages of academic training; (1) the academic stage, (2) the vocational stage at the Bar School and (3) the practical stage or pupillage. There exist however, about ten institutions that operate Bar Vocational Course along with the already existing four Inns of Court.<sup>63</sup> In India, the statutory regulatory body for legal education is the Bar Council of India. As a regulatory body the Bar Council is entrusted with the responsibility of promoting legal education and laying down standards of legal education in consultation with the States Bar Council and Indian universities offering legal education.<sup>64</sup> The body is further empowered to recognize universities whose degree in law shall be a qualification for enrolment as an advocate and pursuant to this to visit and inspect universities in accordance with such directions as it may give in this behalf.<sup>65</sup>

Thus just like the Council of Legal Education in Nigeria, the Bar Council of India possesses considerable power to regulate the contents and standard of legal education in India. It can therefore pursuant to its powers prescribe the syllabi of law faculties as well as their duration for conferment of accreditation. These include imposition of conditions relating to the establishment of law schools, buildings and other facilities and the appointment of faculties.<sup>66</sup>

### 6. Conclusion and Recommendations

The Council of Legal Education is the single service provider of legal education in Nigeria through its regulatory role. With the increasing numbers of persons seeking to become members of the profession, adequate and effective arrangements are needed to provide the desired areas of specialization, and adequate job opportunities and entrepreneurs’ ability fitted for the fast changing globalized market. In the judiciary the need for well trained

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See also Yadudu A.H, *The Nigerian Legal Profession- Towards 2010* (Nigerian Institute of Advanced Legal Studies, Abuja, Nigeria 1997).p.13

<sup>58</sup>In a Two Day Summit on the Future of Legal Education In Nigeria Held On 2<sup>nd</sup> May 2006. Cited in Olusola Babatunde Adegbite; *op. cit.*

<sup>59</sup>Known as the ABA. Law school accreditation in the US is regulated by title 34 chapter vi §602of the Code of Federal Regulations.

<sup>60</sup> Joe- Kyari Gadzama (SAN) 50 Years of Legal Education in Nigeria: A Critique, <https://thenationonlineng.net/50-years-legal-education-nigeria-critique/> accessed 7/9/19)

<sup>61</sup>American Bar Association

<sup>62</sup>See Law School Accreditation-Law Schools, USlegal.com (visited 11/8/2019), American Bar Association/content/aba-cms-dotorg/en/groups/legal\_education/accreditation (visited 11/8/2019)

<sup>63</sup> Joe- Kyari Gadzama, *op. cit.*

<sup>64</sup>section 7(1)h of the Advocates Act, 1961

See Shmnad Basheer & Sroyon Mukherjee; *Regulating Indian Legal Education: Some Thoughts for Reform* <http://ssrn.com/abstract>.(accessed 9/8/2019)

<sup>65</sup>*Ibid*

<sup>66</sup>*Ibid.*

personnel with ethical composition capable of delivering justice demands lawyers trained with such noble goal in mind. The time for reform is therefore now. We believe that the above mentioned recommendations if implemented can effectively address the challenges of efficient legal education in Nigeria.

**Frequency of the periodic review of the law faculty curriculum:** A consistent and efficient periodic review of the faculty curriculum will help bring same abreast of the fast changing globalised world. This is because the recent trends in globalization demands that courses like international environmental law, international human rights law, cyber laws, laws on internally displaced persons genocides and war crimes, E-commerce, and other evolving ones should be made part of compulsory courses in the law faculties. It is also important that law students be exposed to introductory knowledge of foreign legal systems.

**Regular and efficient periodic external assessment by an independent accredited body:** At present the National University Commission and the Council of Legal Education are the assessment bodies of the law institutions in Nigeria. To make assessment of law faculties more efficient, it is suggested that independent bodies accredited by both the National University Commission and the Council of Legal Education be allowed to carry out this task.<sup>67</sup>

**Institutional self assessment:** while independence bodies carry periodic evaluation of law faculties, it is advocated that Universities Law Faculty carries a form of periodic self evaluation. Institutional assessment enables the law faculty appraise itself, deciding her contributions to the students over-all development. Institutional assessment enables the law institution determine her impact on the student. Institutional assessment is practice in US and Canada.<sup>68</sup> In UK, the Quality Assurance agency for higher education (QAA) was created in 1997 to ensure a unified and superior standard of higher education. The agency objective is the promotion of a form of internal assessment which encompassed teaching quality, and inspection of faculty's facilities.<sup>69</sup> An efficient assessment will focus on how institutions prepare students for competition of the real world through curriculum design, policy methodology and teaching pedagogy. Self assessment will help law institution to remain on a path of progressive development.

**Legal and Institutional Reforms:** At present a Bill for the restructure and reform of the legal profession in Nigeria including legal education is presently before the National Assembly. We agree with the Nigerian Bar Association that the time for reform is now. With its present constitution and functions the council of legal education is too bogus to deliver on its mandate. A central and independent regulatory body for the legal profession insulated from politic is advocated. The body shall provide modalities for the accreditation of private and independent bodies whose function will be to conduct assessment and ranking of law faculties for the purposes of accreditation. These independent private bodies will carry out the functions of inspections and visitation of law facilities at regular intervals and function in such a manner to engender competition among the law faculties in Nigeria as it is done in the United States of America.

A statutorily provided mandatory continuing legal education will also assist in maintain an evolutionary practitioners who can adapt to the societal changes. Thus the provision in the new Bill for a mandatory continuing legal education is a welcome development. It is also worth applauding the introduction of mandatory two year pupillage for lawyers recently calls to the Bar. This programme of pupillage if carried out in a competent law firm will equip the fresh practitioner in the onerous task ahead.

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<sup>67</sup> See *ibid*.

<sup>68</sup> Dale Kirby, Reviewing Canadian Post Secondary Education Policy in Post Industrial Canada, 2007, 65, CJEAP cited in O.T. Oduwale, Institutional Assessment as an agent of Reform. An analysis of Nigeria Legal Education, a thesis submitted in conformity with the requirements for the degree of master of laws. Graduate department of law, university of Toronto, [https://tspace.library.utoronto.ca/bitstream/1807/33481/2/Oduwale\\_Oluwakemi\\_T\\_201211\\_LLM\\_thesis.pdf](https://tspace.library.utoronto.ca/bitstream/1807/33481/2/Oduwale_Oluwakemi_T_201211_LLM_thesis.pdf) (accessed 13/09/2019)

<sup>69</sup> The system of assessment of higher educational institution is regulated by the Bologna Process signed by the member states of EU 1999 for the purpose of creating synergy in higher education institutions of member states and to encourage mobility in education transparency, competition and adaptation of academic programmes to the demand of the labour market. In 2005 the EU states ministers of education unanimously adopted a unified quality Assurance Standards and Guidelines (ESG) to be enforced by the European Register of Quality Assurance Agencies as an external evaluation arm of the higher institutions of EU states. Thus the Bologna Process promotes dual system of assessment; internal self assessment and external assessment by the EU Agency. Sjur Bergan, the European higher education area and recognition of qualifications in the context of globalization, in Stamenka Uvalic-Trumbic ed. Globalization and the global market in higher education: quality, accreditation and qualification (division of higher education of UNESCO and the international Association of Universities, Paris, UNESCO Publishing, 2002) 61 cited in O.T. Oduwale *op. cit*.