

## **INADEQUATE TRAINING ON PROFESSIONAL ETHICS: A FACTOR FOR PROFESSIONAL MISCONDUCT IN NIGERIAN LEGAL PROFESSION AND WAY FORWARD**

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### **Abstract**

Cases of professional misconduct have continued to be on the increase in the Nigerian legal profession. This has reduced the confidence members of the public have in the profession. This paper identifies causes of professional misconduct among lawyers and members of the Bench in Nigeria. Few out of the many cases of discipline of judges and lawyers in the country who were found guilty of professional misconduct were listed. The paper also identifies some factors bordering on education as among the causes of increased professional misconduct in the legal profession. The causes include improper assessment of character of bar aspirants; late introduction of courses on rules of professional conduct; lack of post-call education and lastly inadequate time allotted to teaching on legal ethics. Finally, ways which these challenges would be solved were recommended.

### **Definition of Terms**

#### **Ethics**

The word 'Ethics' is from the Greek word 'ethos' which can mean custom, habit, character or disposition. Ethics is another name for moral philosophy.<sup>1</sup> It has been defined as an 'officially adopted statement of principles of accepted conduct relevant to the activities of an occupational group, especially a professional one'.<sup>2</sup> Also, it has been defined as moral principles that govern a person's behaviour or the conducting of an activity.<sup>3</sup> A code of ethics is a guide of principles designed to help professionals conduct business honestly and with integrity. A code of ethics document may outline the mission and values of the business or organization, how professionals are supposed to approach problems, the ethical principles based on the organization's core values, and the standards to which the professional is held.<sup>4</sup> From the above definitions, it is apt that ethics are moral principles that govern a person's behavior. It is also a system of moral tenets or principles which determines what is right and wrong and regulate human conduct and behavior.

In the same vein, professional ethics is a standard of behavior expected by professionals.<sup>5</sup> Another name for it is professional conduct, rules of conduct, professional standard, professional principles and values. It is also called code of conduct that regulates a particular profession. Wikipedia explains it thus:

Most professionals have internally enforced codes of practice that members of the profession must follow to prevent exploitation of the client and to preserve the integrity and reputation of the profession. This is not only for the benefit of the client but also for the benefit of those belonging to that profession. Disciplinary

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<sup>1</sup> Kayler Armstead, 'Ethics in Philosophy, Definition, Branches and Importance', available at ><https://study.com/academy/lesson/what-is-ethics-in-philosophy-definition-types.html><. accessed on 22/11/2023.

<sup>2</sup> Oxford Languages, available at ><https://www.google.com/search?client=firefox-b-d&q=ethics>< accessed 22/11/23

<sup>3</sup> Oxford Languages, available at ><https://www.google.com/search?client=firefox-b-d&q=ethics>< accessed 22/11/23

<sup>4</sup> See Hayes, A, *Investopedia*, 'Code of Ethics: Understanding Its Types, Uses Through Examples' published in <https://www.investopedia.com/terms/c/code-of-ethics.asp>. Accessed on 22/11/2023.

<sup>5</sup> <https://www.google.com/search?q=Professional+ethics+is+a+standard+of+behavior+expected+by+professionals&client=firefox-b>

codes allow the profession to define a standard of conduct and ensure that individual practitioners meet this standard, by disciplining them from the professional body if they do not practice accordingly. This allows those professionals who act with a conscience to practice in the knowledge that they will not be undermined commercially by those who have fewer ethical qualms. It also maintains the public's trust in the profession, encouraging the public to continue seeking their services.<sup>6</sup>

Merriam-Webster dictionary<sup>7</sup> among other things, defines code as a systematic statement of a body of law with statutory force. In *Ibrahim v. Nigeria Army*<sup>8</sup> while citing Black's Law Dictionary<sup>9</sup>, Tur, J.C.A. defined a code 'a complete system of positive law, carefully arranged and officially promulgated; a systematic collection or revision of law, rules, or regulations'. Furthermore, the learned jurist defined code of conduct as a written set of rules governing the behavior of specified groups, such as lawyers, government employees, or corporate employees. According to the Black's Dictionary,<sup>10</sup> codification is the process of compiling, arranging and systemizing the laws of a given jurisdiction into an ordered code. It is usually done in writing.

Be that as it may, professional ethics are posited and prescribed codes. It is usually taught to prospective professionals in the course of their pre-practice training. Therefore, at graduation and qualification to practice, the professional has been taught the ethics of his profession and most at times is handed copies of what the Code of Conduct in that profession is. Also, when there is breach of the code, references are usually made and the prescribed sanctions meted out accordingly.<sup>11</sup> If there is no written regulation on a particular behavior, it is likely not to be seen as code so properly called and not likely to attract sanction.

### **Profession**

Profession has been defined as any type of work that needs special training or a particular skill, often one that is respected because it involves a high level of education.<sup>12</sup> The Wikipedia defines it as:

An occupation founded upon specialized educational training, the purpose of which is to supply disinterested objective counsel and service to others, for a direct and definite compensation, wholly apart from expectation of other business gain.

Therefore, any type of work that requires special or advanced training is profession. Profession includes occupation, career, work, call, vocation, trade craft *et cetera*. Profession requires a particular skill wherein a person acquires special knowledge, makes a career therefrom and earns income therein. In some cases, free professional services also attract expectation of professional competence like the ones fee are paid in. Therefore, where a professional is offering his professional services free of charge, the level of competence and standard of ethical adherence is

<sup>6</sup> [https://en.wikipedia.org/wiki/Professional\\_ethics](https://en.wikipedia.org/wiki/Professional_ethics). Accessed on 30/08/2023.

<sup>7</sup> Merriam-Webster dictionary, available at ><https://www.google.com/search?q=code&biw<> accessed on 30/08/2023.

<sup>8</sup> LPELR-24596(CA) (Pp. 23-24 paras. A-A).

<sup>9</sup> Garner, B.A. USA, (9th edition, Thomson Reuters) 292.

<sup>10</sup> Garner, B.A. USA, (10<sup>th</sup> edition, Thomson Reuters) 314

<sup>11</sup> Milano, S., 'Penalties for Breach of Code of Conduct', available at ><https://work.chron.com/penalties-breach-code-conduct-7294.html>< accessed on 19/11/2023. Here, he stated that suspension and termination from work are sanctions for breach of Code of Conduct.

<sup>12</sup> Cambridge Dictionary, available at ><https://dictionary.cambridge.org/dictionary/english/profession>< accessed on 22/11/2023.

also required like the ones where fees are paid.<sup>13</sup> Another important point to note is that professional ethics bind only members of the profession.<sup>14</sup> Therefore, ethics can be termed as private, sectional or group law as against laws that have general application to all persons in a given society. Further, acquiring knowledge and the skill alone does not suffice for one to be a professional. Profession here relates to both those who have the requisite training, knowledge and experience in a particular career and also those engaged in professional practice as a career. For instance, a lawyer that abandons legal practice to get involved in jobs that are outside the non-law job may not be suitably termed a lawyer in the context of the discourse. Be that as it may, when one does his job in line with his chosen career and strictly observes professional ethics he can be termed to be 'professional'.

### **Misconduct**

It is considered that understanding the term 'misconduct' is very important in this discourse. Misconduct is defined by the Black's Law Dictionary as "a dereliction of duty; unlawful or improper conduct."<sup>15</sup> In *Professor Dupe Olatunbosun v. Niser*,<sup>16</sup> the Supreme Court defined misconduct as 'disobedience of lawful order'. In *Shuaibu V. Nigeria-Arab Bank*<sup>17</sup> willful misconduct was defined as an act outside the scope of an employee's duties in his employer's establishment which is prejudicial to the latter's interest. In *Cadbury Nig. Plc v. Oni*<sup>18</sup> per Saulawa J.C.A, misconduct was defined as 'dereliction of duty; unlawful or improper behaviour' while serious misconduct or gross misconduct was defined as 'dereliction (of duty), unlawful or improper behaviour'. Nevertheless, from definitions and decided Nigerian cases on what constitute misconduct, it seems *mens rea* or the state of mind is fundamental for an act to be misconduct. This means that the actor must be fully aware of the consequences of his act before being involved in the misconduct. In other words, he must also know that he was doing wrong.

### **Importance of Ethics in the Legal Profession.**

Generally, the importance of ethics to mankind cannot be overemphasized. According to Berger, 'without ethics, man has no future.'<sup>19</sup> This is to say, mankind without them cannot be itself. Ethics determine choices and actions and suggest difficult priorities. The consequence of ethical behavior is success. Interestingly, most professionals have internally enforced codes of practice that members of the profession must follow to preserve the integrity and reputation of the profession.<sup>20</sup> However, a man without ethics is like a wild beast let lose to the world. Accordingly, many professional codes are provided so that the success of other members of the profession will not be jeopardized. It is also meant to regulate unhealthy competition with the aim of reducing conflicts among professionals and also to protect the vulnerable members of the profession. The sanctity of the profession is what ethics is out to protect as against individual interest.

Professional ethics encompasses the personal, organizational and corporate standards of behavior expected of professionals. Professional ethics entails integrity, honesty, competence,

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<sup>13</sup> See *Section 9(2)* of the Legal Practitioners Act, 1975, (as amended) on professional negligence even where a lawyer acted without any reward. See also *Lawson v. Siffre* (1932) 11 NLR 113 at 114 where it was held that if a solicitor acts as a solicitor, the question whether he is remunerated or not does not affect liability as he is bound to discharge his duties with care and diligence equal to that ordinarily required of solicitors of competent skill and care.

<sup>14</sup> See *Mic Royal Ltd. V. APCON* (2018) LPELR-45314(CA).

<sup>15</sup> Garner, B. A., *Black's Law Dictionary*, (*supra*) p. 1019.

<sup>16</sup> (1988) 3 NWLR, (Pt. 80) 24 at page 31.

<sup>17</sup> (1998) LPELR-3067(CA).

<sup>18</sup> (2012) LPELR-19821 (CA).

<sup>19</sup> John Berger, *The Denial of True Reflection*, available at ><https://www.theguardian.com/commentisfree/2006/aug/21/comment.secondworldwar>.< accessed on 19/11/2023.

<sup>20</sup> See *LPDC. v. Abua* (*supra*).

confidentiality, probity, transparency, accountability, objectivity, respectfulness, fidelity to law and loyalty. It improves career and job longevity and guarantees positive contribution to social good. It guarantees long term success in a person's career and sustains public trust and confidence. Every profession has its ethics, intrigues and values and these values if maintained, will definitely lead to success. On the contrary, professional misconduct and lack of display of competence are among the banes of the success of a lot of professionals. Not only that their neglect can destroy one's prospect, they can also put one away from job. A professional found guilty of professional misconduct can end up in jail or incur heavy civil liabilities which would have been avoided if the person had been ethical and professional in the practice of his profession. Like in any other professional body, the legal profession has an ethical standard, otherwise known as legal ethics, established through customs, conventions and garnered from jurists and law books as defined in the Black's Law Dictionary as:

The minimum standards of appropriate conduct within the legal profession, involving the duties that its members owe one another, their clients and the courts....The written regulations governing those duties (e.g. Rules of Professional Conduct).... Legal ethics cuts more deeply than legal regulation: it concerns the fundamentals of our moral lives as lawyers.<sup>21</sup>

In *LPDC<sup>22</sup> v. Abua<sup>23</sup>* the Nigerian Supreme Court captured the importance of professional ethics in a profession thus:

It is our bounden duty to see that officers of the court are men of integrity who should be trusted not only by the court but also by the public for whom they act... By enrolling them we present them to the public as men the public can with confidence employ to carry out the duties and responsibilities appertaining to their all-important office. We therefore owe it to the public to see that members of the public are not exposed to risks in their dealings with these men.

Furthermore, professional ethics defines standard of professional conduct and ensures that individual practitioners meet this standard. Accordingly, in *Anthony Ojigbo v. NBA & Anor.<sup>24</sup>*, it was held inter alia that:

The general responsibility of a lawyer is to uphold and observe the rule of law, promote and foster the course of justice, maintain a high standard of professional conduct, and shall not engage in any conduct which is unbecoming of a legal practitioner.

In *Yenkarti & Anor. v. Abbah & Anor.<sup>25</sup>* it was also held that it is the duty of a legal practitioner to maintain a very high standard of professional conduct in the discharge of their duties. In an attempt to emphasize the need for a high standard of ethical conduct for members of the legal profession in Nigeria, it has been stated that law is not only just a profession but also a way of life.<sup>26</sup> Therefore, professional ethics is expected to follow the lawyer wherever he goes. This applies to the lawyer's conduct both in professional acts and also in his ordinary out-of-practice life. This is unlike in other professions where ethical conduct is expected of the professional only when he is acting in a professional capacity. For example, a film actor is expected to be ethical and professional when on stage. Afterwards he retires to his normal life and drops ethics until

<sup>21</sup> Garner, B.A., 8th Edition (2004), p. 913

<sup>22</sup> Full meaning is Legal Practitioner's Disciplinary Committee.

<sup>23</sup> (2014) LPELP 22941 9SC)

<sup>24</sup> (2019) LPELR-46895 (SC).

<sup>25</sup> (2017) LPELR-43032 (CA).

<sup>26</sup> C. K. Wickenden, *The Journal of the Legal Profession*, 'Professional Conduct, Etiquette and Ethics of Solicitors in England', available at >[https://www.law.us.edu/issues\\_files>vol04<](https://www.law.us.edu/issues_files>vol04<)<.accessed on 30/08/2023.

when next he is to be on stage. This is not the case with a lawyer or a judge. On this Wichenden<sup>27</sup> observed that the law profession is not merely a means of livelihood, but a way of life. Ethics extends far beyond the lawyer's office and far beyond his normal working hours. It governs to some extent his personal life and general outlook. It differs in certain fundamental respects from that of other professionals, who may command equally high skills derived from equally long training and disciplines for instance the professional actor or musician, each of whom can discard his professional role when the immediate performance is concluded, and retire into a measure of civic anonymity. Not so for the solicitor. Ethics governs such matters as his choice of colleagues, staff and even clients, his dealings with them and with associates outside the office. It imposes certain restraints and even certain legal disabilities of which the layman may be totally unaware. Such matters will never be far from the conscious or subconscious mind of the practitioner. All these things which an aspirant to the legal profession must appreciate from an early stage of his entrance into the legal profession. He ought to also know that ethical values must remain with him throughout his professional life.

In *Yandy v. alhaji Umar Na Alhaji Lawan & Sons Ltd.*<sup>28</sup> the expectation of a lawyer in every society was noted thus:

Lawyers as operators of the administration of justice system owe a duty, to the society that nurtured them and made them what they are, to ensure that they conduct their activities in a manner that edifies and brings honor, respect and belief to the justice system... It is pertinent that this Court reminds Counsel of the eternal words of a great jurist J. Wesley McWilliams who writing in an American Bar Association Journal in January 1955 (41 ABA 18) wrote in an article he titled "The Law as a Dynamic Profession" thus: "We belong to an ancient, to a great, to an honored profession. The practice of Law is a worthy calling. It has rewarded us with financial success and with prestige and leadership in our communities. It has given us much happiness and the good life. From it we have received the gratitude and respect of our friends and neighbors whom we have served. Our word affords intellectual pleasure with dignity and independence, in competition with our fellow Lawyers with whom we have cemented warm friendships and enjoyed happy companionships. For these blessings, we cannot but have a sense of gratitude and of obligation. The most productive, unselfish and wholly satisfying repayment of the obligation is constructive work to increase the effectiveness of our judicial system and the welfare of the profession." It is hoped that Counsel will take a cue from this statement and learn to contribute to the effectiveness of the justice system, rather than seeking to jeopardize it.

Notably, members of the Nigerian Bench<sup>29</sup> are also members of the legal profession. They include judges of both the high and lower bench. Also, high ethical conduct is expected of them in Nigeria. While ethical conduct of lawyers in the country is guided by the Rules of Professional Conduct, 2023, officers at the Nigerian bench are regulated by The Revised Code of Conduct for Judicial Officers of the Federal Republic of Nigeria, 2016.

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<sup>27</sup> C. K. Wickenden, *The Journal of the Legal Profession* (*supra*).

<sup>28</sup> *Supra*.

<sup>29</sup> Bench collectively describes members of the Judiciary. The term is also used to differentiate Judges from lawyers. The historical roots of the term come from Judges formerly having sat on long seats or Benches when presiding over a Court. The Bench is usually an elevated desk area that allows a Judge to view the entire Courtroom. See E. N. Iwuala, *Judicial Ethics and Code of Conduct for the Nigerian Bench*, (Zubic Infinity Concept, 2022) 6-7.

### **Differences between Ethics and Code of Conduct**

The following have been identified as salient differences between code and ethics.<sup>30</sup> They are as follows:

1. Code is institutionally enforced while ethics is self or morally enforced.
2. Code is most at times written while ethics may not be written
3. There is prescribed punishment for the violation of code but none for ethics.
4. All Codes are ethics but not all ethics are codes.
5. Every proper conduct not codified is ethics.
6. Code has date of commencement but ethics evolves with time.
7. Code is promulgated while ethics evolves from moral principles, behavior, custom and tradition.

Nevertheless, it is the combination of ethics and codes of conduct that make a professional attain professional competence.

### **Cases of Professional Misconduct**

It is an undisputed fact that the level of professional misconduct in the legal profession in Nigeria is on the increase. The Nation's judiciary has always been accused of abuse of power and corruption. This culminated into what may be described as the new taunt/refrain, or jeer phrase which is 'go to court'. This impression is gradually eroding the integrity of the Nigerian judiciary. Incidentally, many cases abound where the National Judicial Council (NJC) has disciplined judges for various judicial misconduct. Hon. **Justice Stanley Nnaji** was sacked when he went outside the jurisdiction of his court to order for the removal Dr. Chris Ngige as Governor of Anambra State. The NJC recommended for the sack of the former Chief Judge of Akwa Ibom State Hon. Justice Effiong Udo, Hon. Justice Matilda Adamu, Hon. Justice Anthony Elelegwu, Hon. Justice O. J. Isede and Hon. Justice Tanimu Mahmoud for accepting bribe to return a favourable verdict to the governorship candidate for the All Nigerian People's Party in Akwa Ibom State Mr. Ime Umanah in 2003 governorship election in that state. Also, the NJC once recommended for the dismissal of Hon Justice James T. Agbada-Fishim of the National Industrial Court from office for receiving various sums of money from litigants, lawyers and some influential Nigerians that had cases before him under the false pretence that he was bereaved. At its 84<sup>th</sup> meeting in Abuja, National Judicial Council recommended for the sack of Hon. Justice Adeniyi Ademola and Hon. Justice O.O. Tokode for acts of judicial misconduct and corruption. Hon. Justice O.O. Tokode was asked to return all salaries he earned as a Judge. He was accused of misleading the Federal Judicial Service Commission and the NJC by submitting six judgments he claimed he personally conducted while practicing as a lawyer; a condition for his application to be a Judge and was so appointed. But investigation had revealed that the Judge only conducted one out of the six cases he claimed. Also, the NJC recommended for the compulsory retirement of Hon. Justice Joshua E. Ikede of the Delta State High Court following proven case of falsification of age. Also, there are a lot of cases whereby the Legal Practitioners Disciplinary Committee has also disciplined lawyers for professional misconduct. In *NBA V. Akintokun*<sup>31</sup>, a lawyer was accused of deliberately misleading his clients. The lawyer failed to carry out client's instructions and employed extra-judicial means to handle clients' land transactions. These unprofessional acts made the clients incur loss. It was held that the lawyer was guilty of professional misconduct as the lawyer owed fiduciary duty of

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<sup>30</sup> Iwuala. E. N. 'Ethics and Code of Conduct for Judges of the Lower Court' p. Course for Newly Appointed Judges of the Area/Sharia/Customary Courts by the Nigerian Judicial Institute presented on 3<sup>rd</sup> July 2023 p. 2 of the paper presented at Course for Newly Appointed Judges of the Area/Sharia/Customary Courts by the Nigerian Judicial Institute (NJI) presented on 3<sup>rd</sup> July 2023, organized by the National Judicial Institute, Abuja.

<sup>31</sup> (2006) All FWLR Pt. 333 p. 1720.

transparency and honesty in dealing with the client's land transaction. Also, in *NBA*<sup>32</sup> v. *Iteogu*<sup>33</sup>, a lawyer was also found guilty of professional misconduct in land transaction for dealing with client's instruction for personal gains. It was held that the lawyer abused the confidence imposed on him by his client. In *NBA V. Udeagba*<sup>34</sup>, a lawyer who was asked to perfect a title deed to land was found guilty of professional misconduct for not rendering complete account of money his client advanced to him for the transaction. In *NBA V. Ibebunjo*<sup>35</sup>, a lawyer was expelled from the legal profession for misappropriating client's money.

According to Premium Times report of July, 2021, from January to July 2021, about eleven lawyers were sanctioned by the Legal Practitioners Disciplinary Committee for various acts bordering on professional misconduct.<sup>36</sup> Be that as it may, list of misconducts a lawyer could be punished for in Nigeria and cases where lawyers have been sanctioned for professional misconduct are inexhaustible. Regrettably, the regulatory bodies in the legal profession in Nigeria have continued to receiving many petitions on professional misconduct against many members of the legal profession in Nigeria.

### **Inadequate Educational Training as a factor for Professional Misconduct in the Nigerian Legal Profession and Way Forward**

#### *1. Lack of Pre-Qualification Character Examination*

Practice of law both as a lawyer and as a judge. This is because of the confidence the lawyer enjoys from members of the public. A lawyer has the privilege to sensitive assignments or materials like money; documents *et cetera* and receive privileged Good character and integrity as already emphasized are very important in the information from clients in the course of his practice. Therefore, lack of good character and professional integrity can undermine a lawyer. Also, no matter how brilliant a lawyer or a judge is, if he does not have good character and practice with high ethical standard, he will have problem of attaining professional competence. Therefore, high level of probity of character and integrity are required. In the case of *Dankwanbo v. Abubakar & Ors.*,<sup>37</sup> It was held that the expectation of good character from a lawyer is for responsibility and accountability and for the protection of the legal profession. The excerpt in *LPDC V. Abua*<sup>38</sup> explains the expectation of integrity from a lawyer thus:

Legal Practitioners are officers of the court. It is our bounden duty to see that officers of the court are men of integrity who should be trusted not only by the court but also by the public for whom they act. We are in this respect carrying out a sacred duty by acting as judges of their conduct. By enrolling them we present them to the public as men the public can with confidence employ to carry out the duties and responsibilities appertaining to their all-important office. We therefore owe it to the public to see that members of the public are not exposed to risks in their dealings with these men.

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<sup>32</sup> Full meaning is Nigerian Bar Association.

<sup>33</sup> (2009) 17 NWLR (Pt1171) 614 (SC).

<sup>34</sup> (2006) All FWLR Pt. 333 p. 1699.

<sup>35</sup> (2013) 18 NWLR (Pt. 1386) 413 at 428

<sup>36</sup> This was an online news-report of the speech of retired Justice of the Supreme Court Hon. Justice Olabode Rhodes-Vivors as Chairman Body of Benchers (the body that admits persons into the Nigerian legal profession) made while admitting new lawyers. See <https://www.premiumtimesng.com/news/more-news/476024-11-nigerian-lawyers-sanctioned-for-misconduct.html?tztc=1>. Accessed on 30/08/2023.

<sup>37</sup> *Supra*.

<sup>38</sup> *Supra per Ademola, J.S.C. (Pp. 8-9, paras. C-E).*

In the same vein, Justice Oputa had this to say on corruption among Judicial Officers:

The Bench is definitely not a place to make money. A corrupt Judge is thus the greatest vermin, the greatest curse ever to afflict any nation... It is far better to have an intellectual average but honest Judge than a legal genius who is a rogue. Nothing is as hateful as venal justice, justice that is auctioned, justice that goes to the highest bidder.<sup>39</sup>

Be that as it may, before a person is entitled to practice law in Nigeria and may get to the bench, he must pass from the law school, called to the bar and enrolled at the Supreme Court as a solicitor. While at the law school, the bar aspirant is required to give certain information on his person to the Nigerian Law School and Body of Benchers that he is a person of good character.<sup>40</sup> Terms like 'fit and proper' as used in Nigeria, 'character and suitability' in England and Wales are used to emphasize on character in the legal profession.<sup>41</sup> However, it is unfortunate that the only parameter for character assessment of a Bar aspirant is the one the Bar aspirant provides in the Law School Admission and Body of Benchers. Never has the Body of Benchers verified or investigated this information except when petitions of alleged misconduct from those who are aware that such a bar aspirant is seeking to be called to the Nigerian Bar is presented. This is why incidents of professional misconduct have continued to be on the increase among Nigerian lawyers as bad eggs explore the porosity in the above ways of ascertaining persons of bad character to infiltrate the legal profession.

However, in England and Wales, before one qualifies as a solicitor, there is a character assessment of individual aspirants to the profession by the Solicitor's Regulation Authority. It was introduced in the year 2019. The criteria set for one to pass this test is very thorough and helps to easily discover persons of unquestionable character who want to join the profession. The aspirant is meant to provide detailed general information about himself. This includes things like places he had worked before if any, positions he had held, financial history, malpractice during previous examinations, health status *et cetera*. The authority will then investigate and verify the information supplied.<sup>42</sup> It is after the person passes this test that he will be considered to be admitted as a solicitor in England and Wales.

In Ontario, there is also individual character assessment made by the Law Society of Ontario before a person is licensed to practice as a lawyer.<sup>43</sup> In the United States of America, besides passing bar examination, applicants for law licence must also pass a character and fitness review test. For example, if falsehood is discovered from information supplied, that will inform the admitting authority of the level of dishonesty of the applicant. Therefore, those who admit lawyers into the legal profession in Nigeria should do re-qualification assessment of character for applicants like it is done in other jurisdictions. Be that as it may, it is also suggested that names and details of bar aspirants be made public and time given to entertain petitions thereof. This among other things, are some of the way persons who are not fit and proper for the legal profession can be fished out.

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<sup>39</sup> C. A. Oputa, *Nigerian Essay in Jurisprudence* (1993) MIJ Publisher, p. 231.

<sup>40</sup> See *Section 4* Legal Practitioner' Act, 1975.

<sup>41</sup> See the Solicitor Regulation Authority (SRA) Assessment of Character and Suitability Rule in the United Kingdom contained in the SRA website <https://www.sra.org.uk/solicitors/standards-regulations/assessment-character-suitability-rules/>. Accessed on 30/08/2023.

<sup>42</sup> See the Solicitor Regulation Authority (SRA) Assessment of Character and Suitability Rule in the United Kingdom contained in the SRA website See Solicitor's Regulatory Authority website published in <https://www.sra.org.uk/solicitors/standards-regulations/assessment-character-suitability-rules/>.

<sup>43</sup> See Law Society of Ontario's website <https://lso.ca/becoming-licensed/lawyer-licensing-process/good-character-requirement>. Accessed on 30/08/2023.



2. *Late Teaching of Ethics*

Another reason identified for high level of professional misconduct in the legal profession in Nigeria is that lawyers are not exposed to professional ethics and codes of conduct as early as possible in the course of professional training. Lawyers meet professional ethics and code of conduct only at the law school. However, if the study of rules of professional conduct legal practitioners is introduced early in the course of university training like law of evidence, conveyancing, criminal law, commercial law etc., it will be better comprehended. When introduced, adequate time should be allocated to it in the academic curriculum. This undoubtedly, will go a long way in eroding the high level of professional misconduct and unethical practice among Nigerian lawyers.

3. *Lack of adequate Post-Qualification Education*

Furthermore, after qualifying to practice law in Nigeria, lawyers completely do not undergo refreshing study on ethics and code of conduct. The fire-brigade measure employed in the teaching of professional ethics in the law school is not enough to internalize learning. Also, it is natural that lawyers may forget some of the things they learnt on ethics at the law school after some time. In England and Wales, the Solicitors Regulation Authority holds regular events for professionals as a post qualification teaching for professionals on ethical issues.

However, bodies like the Legal Practitioners Disciplinary Committee do not get involved in post qualification training and teaching on ethics. Unfortunately, they are only involved when professional misconduct is committed. With due respect, this non-proactive measure will continue to encourage professional misconduct as some of the misconducts are committed out of ignorance. Therefore, apart from disciplining for misconduct, it is recommended that the establishment law of Nigerian professions be amended for professional bodies to be involved in post-qualification awareness, teaching and events on ethics and code of conduct. The Nigerian Law Society<sup>44</sup> has also identified inadequate educational as the bane of professional ethics among lawyers in Nigeria. It recommended Lawyers in Nigeria should receive more extensive training on ethics and professional conduct. This as the Nigerian Law Society suggested can be achieved through continuing education programs and training sessions organized by the NBA and other legal organizations. The National Judicial Institute should also give priority to lectures and trainings on judicial ethics and code of conduct for members of the higher and lower bench in the country. Also, both state and federal judiciaries should organize frequent fora, workshops, seminars, trainings etc. for judges. They should also sponsor more judges to the National Judicial Institute for continue training on ethics and code of conduct.

4. *Inadequate Time for Education on Ethics*

In another vein, because of the low level of importance attached to professional ethics and code of conduct in Nigeria, adequate time is not usually assigned to their teaching during lectures, seminars, workshops and other professional events. Ethics and code of conduct are like a life-style that needs more time to be appreciated. The situation in England and Wales for solicitors is a model.

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<sup>44</sup> On 'Strengthening Legal Ethics and Professional Conduct in Nigeria: Challenges and Solutions', published in its website on 01/05/2023. Accessed on 19/11/2023. The Nigerian Law Society is an association of lawyers in Nigeria who are committed to upholding the highest standards of professionalism and integrity in the legal profession, and to promoting the interests of our members and the wider legal community. Among other things, it is committed to continuing legal education among members. See the above we address for details

## **Conclusion**

From the foregoing, this paper has examined the concept professional ethics and code of conduct for legal practitioners in Nigeria. Members of the legal profession who featured prominently in this paper are members of the Judicial Bench and the Bar. In other words, judges and legal practitioners. Be that as it may, from prevalent cases as listed above, it is very obvious that cases of professional misconduct are high in the country. However, it has been aptly observed that the high level of unethical practice among members of the legal profession in Nigeria is partly caused by inadequate education and training on ethics during both at pre-qualification and post-qualification stages in law practice in the country. Furthermore, the various ways inadequate training has continued to pose threats to ethical standard among members of the legal profession were also discussed. Drawing from other jurisdictions, ways towards strengthening professional conduct in the legal profession in Nigeria have been made. It is therefore believed that if these and other recommendations not captured by this paper are implemented, high ethical standard among judges and lawyers in Nigeria will guaranteed.