THE PROBLEMS OF LEGAL EDUCATION IN NIGERIA – SETTING THE TONE FOR DISCUSSION

In 2003, the Nigerian Bar Association set up a committee to look into the state of legal education and suggest proposals for reform. The concerns of 3 years ago are even more valid today and this Summit is the culmination of that process. All sectors of the legal profession have identified lapses in the system and have been calling for the reform of legal education. To enable the profession obtain input from all sectors of society, the Association requested from memoranda from the public. Many responded to our call, and to all who we did, we hereby express our deepest appreciation.

This presentation is a summary of the various memoranda that was received from law professors in the universities, lawyers practising inside and outside Nigeria, and members of the public. It will highlight the salient points on the present state of our legal education system, the problems as stated in the memoranda received and suggested reforms and lay the foundation for the next two days of discussions.

THE PRESENT SYSTEM

§24 of the Legal Practitioners Act defines a legal practitioner as -

“A person entitled in accordance with the provisions of this Act to practise as a barrister or as a barrister and a solicitor,
either generally or for the purposes of any particular office or proceedings.”

A person is entitled to practice as a legal practitioner if his name is on the Roll [§2(1)]; he is entitled to be enrolled if he is called to the Bar by the Benchers [§7] and he shall be entitled to be called to the Bar if:
i. He produces a qualifying certificate, and
ii. He satisfies the Benchers that he is of good character. [§4]

The Act does not provide any educational qualification for being called to the Bar. It is the National Universities Commission¹ that has established standards for the conferment of law degrees. Likewise the Council of Legal Education established requirements which a law degree must satisfy before it can qualify its holder for admission into the Nigerian Law School². This therefore subjects the Law faculties to two accreditations; one by the National University Commission and another by the Council of Legal Education.

Since lawyers are required to have a legal education before they can be called to the Bar, what is the purpose of legal education? Memoranda received referred us to the following quotations:

‘Legal education does not consist of mere learning of legal rules and craft skills; it is an intellectually challenging exploration of the genesis and growth of basic social institutions... Legal education, however, stands to forfeit its entitlement to University status if its teaching becomes mere rote-learning of rules and doctrine or drills in craft skills, if its study is abstracted from the cultural, economic and political life of the society’....³

¹ Established by the National Universities Commission Act 1974 and under the powers conferred on it by the Educational (National Minimum Standards and Establishment of Institutions) Act 1985
Similarly the “study of law must not end with the imbibing of general principles of law. It must involve law in action, in all its ramifications. The relationship of law to social, economic and political realities of life must be encompassed”.4

As of today legal education is taught based on a basic standard curriculum as prescribed by the NUC. The following courses are classified as core courses: Legal Methods, Constitutional Law, Law of Contract, Criminal Law, Commercial Law, Equity and Trust Law, Law of Evidence, Jurisprudence and Legal Theory, Law of Torts and Compulsory Essay which are compulsory courses in all law faculties.

The LLB degree is awarded after a 5 yr programme [4yrs for Direct Entry candidates] for candidates entering the university through the Joint Matriculation Examination [JME]. Subjects are taught using the course system and each session consists of 2 semesters of approximately 14 weeks each. In addition to law subjects, all law students are required to take some non-law subjects. Every semester ends with a theory examination.

The 'continuous assessment' philosophy which is the basis for a course system, and the virtually all year round course work and marking involved in it cannot be properly achieved when the ratio of students to staff exceeds the recommended standard by wide proportions.

In many instances first semester examination results have not been released by the end of the second semester, and second semester results are released the following session. This delay in marking scripts

emboldens students and lecturers to lobby and negotiate; grades for sex or grades for money.

The consensus of opinion is that

'At the stage of admission to practice a young lawyer should have academic capacity to diagnose problems which clients put before him. Across a large area of the law, he should know and understand the basic principles applicable; and in other areas he should be able to discover the present state of the law, to find statutory materials and case law in completely new fields, to interpret it and apply it.

He should know and understand the basic principles applicable in relation to the law of contract, the law of torts, the creation and transfer of interest in real and personal property, the creation and administration of trusts, the devolution of property on death. He should have a basic understanding of the operation of the criminal law and of the rules relating to its application.

All of those basic principles should be contained in his head and not his notes, his understanding of these basic principles need not be very sophisticated, but he should have the mental capacity for sophisticated reasoning.\(^5\)

Have our Law faculties and the Nigerian Law School been able to achieve this objective? Although the economic climate has changed dramatically in the past 40 years of legal education in Nigeria, the consensus from memoranda received is that the curricula in the law faculties have not

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\(^5\) Gerard Nash, Dean of Faculty of Law, Monash University Victoria Australia, in his paper "Legal education, A Legal Assembly Line" presented at the 1980 6th Commonwealth Law Conference as reported by Mrs H A Balogun in her paper 'Upsurge of Lawyers in the past two decades – Challenges, Problems and Solution' presented to the 1999 Annual Bar Conference held in Ilorin Kwara State.
kept pace with current realities. As an aside, anyone studying any subject in an American university must either learn how to type, or be prepared to pay per page to have term papers and dissertations typed, as handwritten work will not be accepted. Everyone knows how to type and use a computer. In Nigeria, scripts are still handwritten. Similarly in other countries in the Western world the inability to use the various research tools freely available on the internet will put a student at a serious disadvantage, as references to such sites are commonplace. These are some of the basis skills taught as part of the 'Legal Skills and Methods' course offered in the first year of many overseas LLB courses.

After graduation from the university, anyone who wishes to practice as a lawyer must undertake the 1 year compulsory training programme at the Nigerian Law School and pass the examinations to be called to the Bar.

Six courses are taught at the Law School – Legal Drafting and Conveyancing, Civil Procedure, Criminal Procedure, Company Law and Commercial Practice, Law of Evidence and the General Paper which covers law office management, solicitors’ accounts and professional ethics over a one year period. In both the university and at the Law School subjects are taught by rote, with students being given handouts and lecture notes. Independent research is not often encouraged, and the facilities for it are virtually non-existent. In addition to attending lectures, students participate in 4 weeks of court attachment and about 5/8 weeks of law office attachment. It is not clear whether there are any criteria governing how chambers are selected for the law office attachment programme, and the experience of law students when questioned varies greatly. While some chambers attempt to guide the students through the various matters to which they are expected to be exposed during the period, other lawyers leave them to study the Law School class notes they have been given during lectures.
While the universities seem to concentrate on 'substantive' law subjects, from the courses taught, the focus of the Law School seems to concentrate on the teaching of 'procedural' law. However this 'practical' law is not taught using practical methods; even in the Legal Drafting and Conveyancing course, the skills taught are theoretical and the first chance a student may have of drafting a legal document may be as part of the examination. Other practical legal skills such as client interviewing, presentation skills, negotiation skills do not routinely form part of this practical law training period.

The inclusion of court and law office attachment periods in the curriculum emphasises the practical aspect of the Law School training, however anecdotal evidence from employers of newly called lawyers is that they have not received adequate training either in the university or at the Law School and are therefore not immediately able to contribute meaningfully as lawyers to their place of employment. The knock on effect is the often times glaring disparity between the starting salaries of lawyers when compared with other professionals. Our enquiries showed that starting salaries for a newly called lawyer range from N120,000 per annum [N10,000 per month] in a small provincial practice [by far the majority] to N960,000 per annum [N80,000 per month] in the very few 'city' law firms [with a median of N25,000 per month]; while starting salaries for a newly qualified doctor range from N40,000 to N60,000 monthly, and a newly qualified [post ICAN] accountant may earn from N50,000 to N90,000 monthly depending on the place of his appointment. As a general rule, the newly qualified lawyer is the least poorly paid of all professionals.

**THE STATE OF OUR LAW FACULTIES**
There are presently about 40 faculties of law in the universities, including those supposedly devoted to 'science and technology'. There is a belief that the continually increasing number of intakes into the law faculties has placed undue pressure on the staffing and teaching capabilities in the law faculties and the law school and led to the decline in the quality of legal education.

There are no uniform standards on the required qualifications for law teachers generally and even those established by a university are not often followed. Heavy reliance is placed on the use of part-time law teachers, associate law lecturers and in some cases, visiting lecturers. A side effect is that the training of law teachers is itself affected and their quality is suspect. Memoranda received reported plagiarism among law lecturers and candidates for doctoral studies. The supervisors for higher degrees and relevant research materials in the libraries may not always be available. Funding for overseas exchange programmes is fast diminishing. The quantity and quality of law teachers has had a definite impact on the quality of legal education in the country and a situation where a law faculty has less than twenty members of staff most of whom are Assistant Lecturers and Lecturers II calls for serious concern.

At the conclusion of the NUC's 2000 accreditation visits only one university's Law Faculty received full accreditation; twenty others were granted interim accreditation whilst four others were denied accreditation. As we all know, many Law Faculties fared no better in the recently concluded 2004 exercise, with many of the first generation faculties falling by the way side.

The NUC staff/student ratio of 1:20 and the prescribed staffing mix has been consistently violated by the universities and the Law School. Classrooms and lecture halls are overcrowded, lecturers are too few to
allow them have personal knowledge of the students they teach, tutorials [as we knew them] no longer exist, and libraries are under stocked, and with out of date books. The attempts by the Council of Legal Education to resolve this problem by restricting admission to the Law School to the exact numbers agreed with the NUC for law faculty admissions has not been effective.

There is also an insufficient exchange of ideas and too few points of convergence between law teachers in different universities, and hardly any between the Judiciary, the private Bar and academia. Current judgements of superior courts are not immediately available to academia, until [and unless] published in the law reports. The result is an absence of robust legal scholarship which would develop from the interchange of ideas coming out of conferences, publications and research. Avenues where the Bar, the Bench and academics can share experiences and compare notes can only benefit the law student.

The attempt to expose students to practical experience of the law in action by allowing law teachers to also practice, has been abused, as law teachers are often absent from lectures while fulfilling their ‘private practice’ commitments. Forced to cover lost grounds on the eve of the examinations, they teach only what would come up in the examinations as if education is solely about passing examinations. The integrity of examinations is therefore suspect. In addition in some universities poor attitude towards invigilation makes it possible for candidates to cheat. Tactics such as ‘missile,’ ‘ECOWAS,’ ‘giraffing’ are used to cheapen examinations.

A general look at the curricula and contents of many of the law courses reveal outdated subjects taught in an outdated way. Note taking and distribution of printed lecture notes is the order of the day. Students are
compelled to purchase poor quality books written by lecturers and threatened with failure where they fail to purchase a copy.

The 'Socratic' method [where students learn by extracting legal principles from case law and discussing their findings with the lecturer] is unknown and students are not sufficiently exposed to the global trends and thinking which will enable them compete favourably in the global market. A drastic over haul of our legal curricula is required if we are to check the downward trend in the standard of legal education.

The Nigerian Law School has similar problems and is unable to cope with the influx of law students being churned out by the universities. The grant by the Council of Legal Education of extra sessions to enable the Law School clear the backlog of students awaiting admission into the school is becoming a regular occurrence. The Federal Government is clearly unwilling [or unable] to adequately fund the Nigerian Law School [example: the proposed residential buildings at the Lagos campus remain uncompleted years after construction started].

**PROBLEMS**

A review of the memoranda received highlighted the following issues for discussion:

- Is the content of the law curricula consistent with our contemporary economy?
- Are the methods of teaching in line with modern trends?
- Are we producing too many lawyers, since unemployment of law graduates seems to be rife?
• Are employers of lawyers and purchasers of legal services satisfied with the scope and quality of legal education?

• Are lawyers adequately equipped to enable them perform competitively in today’s market?

• Is there any mechanism in place for determining and maintaining legal standards?

• Can Law be properly taught using the course system currently in place?

• Are examination results a true reflection of legal knowledge in today's system?

• Should we be satisfied with the pass rate in the universities and at the Nigerian Law School?

• Are there acceptable alternatives available to solve the current funding challenges for legal education?

• Are proper standards in place for recruiting and training law teachers?

• Are we taking enough action to replace and replenish the older corps of law teachers?

**PROPOSALS FOR REFORM**

Many suggestions have been proposed, in an effort to redeem the identified ills in the present structure of legal education. Some of these suggestions [in no particular order] are:
1. Abandoning the Course System of teaching law and reverting to the term structure.

2. Introducing Practical/Clinical training into legal education – either at the universities or at the Nigerian Law School.

3. Making Law a postgraduate degree.


5. Basing admission to the Nigerian Law School on an entrance examination.

6. Extending the legal curriculum by making courses such as Human Rights Law, International Law, and Administrative Law core/compulsory courses in the universities.

7. Totally revising the syllabus of the Nigerian Law School to make it more skills based and practice oriented.

8. Engaging the Judiciary in legal education by mandating that all the judgments of the superior courts of record situate in a state should be sent to the nearest law faculty for academic analysis and comments.

9. Engaging the private sector in providing support for law training.

10. Engaging alumni in organised support of law faculties.

11. Lecturers should be assessed anonymously on their teaching skills by their students at the end of each semester, based on agreed basic criteria.

12. Scrapping the Nigerian Law School entirely and making the Council of Education an examination board [the US system] which will to provide a syllabus, set examinations and mark scripts of candidates ready to take the Call to Bar examinations.

13. Providing compulsory pupillage after the Nigerian Law School programme before graduates can practice on their own.

14. Implementing an American based system of legal education by making the Council of Legal Education into purely a standards and
examination setting body, which produces a syllabus, accredits institutions and law firms where practical legal knowledge can be acquired [pupilage] before candidates sit for their Bar examinations. Students would be tested on their ability to practically apply the law to real-life situations.

15. Implementing an English based style of legal education by turning the present four campuses of the Nigerian Law School into four independent and autonomous Law Schools, all supervised by the Council of Legal Education, which sets standards and examinations.

The sessions to follow will discuss these trends in greater detail; hopefully your participation will enable the Association decide on what type of legal education we wish to provide for the next generation of lawyers, realising that the quality of the legal profession is a direct result of the quality of legal education.

I thank you all for your attention.

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