

VALUES IN THE LEGAL PROFESSION

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INTRODUCTION

It is my pleasure to be here to deliver this lecture on a topic which is of great importance to the Legal Profession. I would therefore wish to thank the Dean of the Faculty of Law Professor Johnson Anifalaje and all our other colleagues in the Faculty for extending this invitation to me to share with our aspiring members to the Bar, these few thoughts on a topic that is very central to the profession.

I recall performing a similar exercise sometime ago (I believe in 1986). I had on that occasion been asked by the then Director General of the Nigerian Law School, Chief B. A. Ibrorke, S.A.N. to represent him. It is therefore a delight to be back years on to a bigger Faculty of Law in every sense. I thank you all again for this privilege.

THE PROFESSION

Because this lecture is centred on the legal profession, I believe that it is expedient to give a brief relevant history of this noble and honourable profession of ours. The legal profession is one of the oldest professions in the world. It existed in one form or the other from ancient times. It existed in the old Roman and Greek city States, where some people rendered services to families, neighbours and friends in the form of representation in court. They were not Lawyers per se, but helpers. And in Rome they came from the priestly laws and were the earliest known Roman Jurists and Lawyers. In those days, they were referred to as Orators or Advocators. Christian Theologians will recall an account in the Holy Book of a man

called Tertolus who was engaged by the High Priest Ananiais to argue a case against Apostle Paul before Felix the Governor of Caesarea – Rome; he was a Lawyer. Since then, the legal profession has developed with the society. The profession became well established in subsequent world civilization. Great leaders in history like Harmmursh the King of Babylon, Justinian 1 and Napeloen Bona Parte all displayed interest in the legal profession and contributed in no small measure to its development. These rulers' interest in the legal profession and the development of law demonstrated their beliefs that law and Lawyers have a vital role to play in society. The welfare of society is therefore a main focus of Lawyers to the present day. 2

In Nigeria the history of the legal profession dates back to 1876, when the Supreme Court Ordinance provided for two classes of persons to practice law in Nigeria. These are:-

1. Persons who were professionally qualified as either Barristers or admitted as Solicitors in England, Scotland and Ireland. These persons were automatically enrolled in the Supreme Court; and
2. The second group were those empowered by Section 74 of the Ordinance under the hand of the Chief Justice to temporarily practice law.

The second group ceased to exist in 1914 due to protest by professionally qualified Lawyers. Thus for a long time between 1914 and 1962, only those who qualified from Britain formed membership of the legal profession. This group of practitioners were not without their shortcomings. Foremost of this is the fact that in England the profession is not fused like what is practiced in Nigeria. You either train as a Barrister or as a Solicitor. These persons came to Nigeria and practiced as both Barristers and Solicitors. Besides, they were trained in the unitary system of governance as

obtainable in England whereas now in Nigeria, Federalism is practiced. It was also true that they knew very little about Nigerian Legal System, Customary Laws and Constitutional Law.

It was to cure these anomalies that the Nigerian Law School was established, on the recommendations of the Unsworth Committee in 1962. From the initial intake of 8 students in January 1963, the Nigerian Law School has been responsible for the training which preceded the Call to the Nigerian Bar, of over 40,000 Lawyers by July 2003. As a result, there has been a remarkable growth in the legal profession both in terms of numerical strength and in the advancement of our jurisprudence. However, it has also ushered in strong agitation for the sustenance of the ethics of the profession as well as strict adherence to the rules of professional conduct. It is on these that this lecture is focused.

VALUES IN THE LEGAL PROFESSION

The legal profession *inter alia*, is saddled with interpretation of the laws of the land, maintaining and upholding the rule of law, and safe guarding of fundamental human rights. These are weighty endeavours, failure of which will move the society in the direction of anarchy. And as a great philosopher John Hibley puts it, life will be brutish and short without Lawyers. It behoves members of the legal profession to safeguard the laws of the land, either as Advocates or Judges. This task is onerous to say the least.

The role of a Lawyer is primarily one of acting on behalf of others from a knowledge of law. It is therefore usual for Lawyers to be found as mediators in a conflict. Before, a legal battle commences, a Lawyer by his training would have evaluated the facts and the law and identified the real area of conflict. Central to all these is the fact that Lawyers deal in other

people's lives, beginning from before birth to after death. Law ranges from trust, to all aspects of business. It extends in scope from government to personal actions such as divorce, libel, and wills. Simply put, every facet of human life is covered by law. Therefore, people's lives can be affected, improved or even wrecked by Lawyers.

It is from the way Lawyers perform their functions that society will perceive them. Without strict adherence to the ethics and values of the profession, society will lose confidence; and when that happens perhaps, the last hope of the common man is dashed and its consequences are invariably adverse to societal interests.

When the term legal profession is used, it is referable to both Lawyers and Judges as components. The values of the legal profession therefore encompassed the values which Lawyers and Judges need to uphold and sustain for the enhancement of the profession and the society at large.

The Rules of Professional Conduct in the Legal Profession (R.P.C.) prescribe rules and ethics for the profession that member must strictly adhere to. These rules were made by the General Council of the Bar at its General Meeting in Lagos on December 25, 1967 and was amended by the Council on January 15, 1974.¹ The General Council of the Bar is established by Section 1 of the Legal Practitioners Act to make rules to be kept by legal practitioners. These rules regulate the conduct of members in the profession and prescribe values which members must possess and maintain and failure to adhere to them is punished by the Legal Practitioners Disciplinary Committee. It is some of these values that I shall hereafter consider.

HONESTY AND INTEGRITY

The word Honest is defined by the Oxford Advanced Learner's Dictionary, 6th Edition, as the quality of being honest, always telling the truth, and never stealing or cheating. Integrity is also defined by the same book as the quality of being honest, having strong moral principles either in a personal or in professional capacity.

The rule of law is viewed by members of the society as the last hope of the common man. They believe it is the only avenue for redress from the oppression of the rich and powerful. They believe, by necessary implication, in the members of the legal profession who are to defend them through the machinery of law. A fundamental underlying basis for this belief is trust. They trust members of Legal Profession and expect them to be honest men and women of high integrity. Any breach of this trust will necessarily erode the confidence reposed in them by members of the society.

Rule 12 of the Rules of Professional Conduct provides that a Lawyer is bound to give a candid opinion of the merits and probable results of pending or contemplated litigation. A Lawyer should avoid giving false assurances to his client just because he wants the brief. The practice whereby legal practitioners file frivolous and unmeritorious suits even when it is obvious that there is no cause of action is unfortunate and despicable. The prevailing economic adversity in the country affects every strata of the profession. The worst hit are the new wigs who have to struggle for a share of available briefs. But this should not make a Lawyer derogate from the expectation of his high standing in society. It has been said that no pursuit in life is more honourable or useful than that of the Law when followed as it should be. That is indeed true.

The onset of practice as a Lawyer is always fraught with financial difficulties. If you persevere and proceed with unflinching dedication, the ensuing reward will come at an unexpected time. There are, of course more of trying times in the profession nowadays. The hope is that when success comes it will obliterate in manifold ways the travails of the starting years.

But what do we have in our society today?. Money is worshipped by the society irrespective of how it came about. The value of honesty and integrity no longer applies. The few honest men we still have around in the society are regarded as not being smart and are either relegated to the background or frustrated out of the system. The dishonest and the crooked are applauded and compensated for their sleaze. The Legal Practitioner lives in this same society that is replete with corruption and moral decadence. He cannot however, afford to be enmeshed in this decadence because he is the last hope of the people.

The increasing numbers of petitions received by the Legal Practitioners Disciplinary Committee shows that dishonesty has eaten its way into the legal profession and has seriously eroded public confidence. Counsel involve themselves in all manner of dishonest acts ranging from collecting money from the litigant on the other side of his client's case, collecting professional fees for briefs they do not intend to handle, appropriating clients' money as their own, instigating litigations, fabricating evidence, forging of documents and abuse of privileged information. The list is almost endless. There has always been a universal element of suspicion and distrust between a Lawyer and his client. It was once said about Lawyers that: "there was a society of men (Lawyers) among us bred up from their youth with the art of proving by words that white is black and black is white according as they are paid. To this society all the rest of the

people are slaves.” One only hopes that this statement is not true. It is Lawyers by themselves that can disprove it by their collective behaviour.

As a result, Lawyers cannot afford to drift along with the general society in this era of plummeting moral values. There were times when Lawyers were automatically perceived as champions of the less-privileged, and defenders of peoples’ rights. A Lawyer was automatically someone one could trust and who upheld the standards of decency in the society.

Another aspect of dishonesty by Lawyers relates to the endemic practice of deliberately delaying cases to enable them extort clients for a long time. All manner of dubious excuses and schemes are used to frustrate the speedy trial of their cases. Frivolous motions of all kinds are filed and flimsy adjournments are sought in court as delay tactics. They either want the Judge to be transferred or retire so that the case would be forced to start de novo and thus frustrate the other party who may have become weary of the incessant delays. This has made members of the public to lose confidence in our justice system such that individuals and corporate bodies alike will explore other unorthodox means of settling disputes. Because as the saying goes, “Justice delayed is justice denied.” There is nothing wrong in pursuing alternative means of dispute resolution within the Law. What is disparaged here is the resort to unorthodox ways out of frustration.

You must recall the recent incident in the High Court of Lagos State when a trial Judge in a criminal case was virtually hounded to withdraw from further adjudication in the case. From newspaper reports, the Judge was critical of the unbecoming involvement of defence Counsel in not only delaying speedy trial, but also in blackmailing him in manifold ways. The case had been on for over three years before the Judge’s withdrawal.

From historical record of our profession, some of the earlier Lawyers like were involved in various shades of financial scandals of cheating their clients. This goes to show that misconduct in our ranks is not novel.² Its old age should not however be a source of commendation for its approval. Regrettably, many of the bad eggs amongst us are improving on their work and despicable conduct to the extent that today the public attitude towards Lawyers is that of tolerance.

Integrity in the profession also involves not giving false assurances to clients, and not liaising with fraudsters to swindle clients of their money for example by deliberately purchasing lands with bad title documents. Examples abound and the list is almost endless. It is a true statement to assert that the Legal Profession has been invaded by some undesirable elements. Their numbers are, sadly, on the rise too.

It is also the duty of a Lawyer to preserve his client's confidences. This duty outlasts the Lawyer's employment and it extends as well to his employees; and none of them should accept employment which involves or may involve the disclosure or use of these confidence, to the disadvantage of the client, without the client's knowledge and consent and even though there are other available sources of such information.³

DECORUM, DIGNITY AND COURTESY

Decorum as defined by Oxford Advanced Learner's dictionary 6th Edition is polite behaviour that is appropriate in a social situation. Dignity is defined as a calm and serious manner that deserves respect, the fact of being given honour and respect by people, a sense of your own importance and value. Courtesy on the other hand is defined as polite behaviour that shows respect for other people, a polite thing that you say or do when you meet

people in formal situations. All these are essential attributes which a Lawyer must possess.

Rule 6 of the RPC provides for decorum to be observed by lawyers while in court and addressing a Judge. These are namely:-

- (a) A lawyer should rise when addressing or being addressed by the Judge; and
- (b) While the court is in session a Lawyer should not assume an undignified posture and should not, without the Judge's permission remove his wig and gown in the courtroom. He should always be attired in a proper and dignified manner and abstain from any apparel or ornament calculated to attract attention to himself.

The tradition is that Lawyers should be seated and fully robed before the court sits. These days some counsel rush into court well after the court had started sitting with attendant distraction to the Bar and the Bench. This is most unbecoming. We are referred to as "Honourable gentlemen" and "learned friends." Those terms connote integrity, decorum, courtesy, wisdom, earned high regard and good reputation. The way you dress, the way you speak, the places you go, the company you keep all affect your individual performance and the profession. A Lawyer appearing in court or in any other sphere of the economy for that matter should appear with the dignified expectation. Most times the way you look affects your case. The Judge that beholds you with your scruffy appearance would hardly expect anything good from you. He may likely form an instant unsavory impression of you and may get irritable with you.

Proper mode of appearance in our courts has been described by Hon. Anthony Ekundayo as follows:-**4**

“A counsel appearing before courts other than the High Court, the Court of Appeal and the Supreme Court is expected to be in clean dark suit, clean white shirt, smart tie, and well-polished shoes. That every gentleman should carry handkerchief is basic. In the High Court, the Court of Appeal and the Supreme Court, you, of course, appear in the Barristers’ robes. The bib and collar should be immaculate white. It is important that your bib conceals your front stud. As for the Customary Court of Appeal and the Sharia Court of Appeal, the opinion of the writer is that counsel should not appear before them in robes. Robes do not indicate status but tradition. Lawyers should robe up only before those courts whose Judges also wear the English style of robes for court business. Lawyers ought to appear before the Customary Court of Appeal and the Sharia Court of Appeal in suits. The robes, worn by Judges and Barristers of the English tradition, are in no way relevant to Customary or Islamic Law Courts. That explains why the Judges and Kadis of these Courts do not wear those types of robes.

Before whatever court, however, you owe it a duty to be very neat and well-kept. Let’s face it, no one is in love with uncleanliness. A Judge is a human being, with human feeling and human reaction. If you dress like a tramp before the Judge, he will be right to treat you like one. So, show high respect for yourself and for the court by appearing before it as a gentleman of honour. It does you no good for a Judge to order you out of his court for unbecoming appearance; and

this he can very easily do, if you wear out his patience and endurance through untidiness. When you are terribly untidy, you become a monstrous spectacle and, hence, a distraction. The Judge spends half of the time wondering how on earth you got called to the Bar; whether at all you do take your bath etc. He is too irritated to appreciate the points you are making, much as he is trying to do. This does no good either. Appearance does matter much, watch yours.”**5.**

Part of the rules of professional conduct specifically provide that: It is the duty of the legal practitioner to maintain towards the court a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of the supreme importance,**6.** Rule 3(a) of RPC provides that during the trial, the legal practitioner should always display a dignified and respectful attitude towards the Judge presiding not for the sake of his person but for the maintenance of respect for and confidence in the judicial office. An advocate has a duty to be respectful and ensure that the authority of the court is not in any way undermined by the litigant who is his client. He is not expected to maintain an undignified posture. He is disallowed from talking while the Judge is talking and on no account should a Lawyer argue with a Judge. It is discourteous for a Lawyer to eat or be seen chewing when the court is sitting. Counsel should also not engage in conversation with themselves while a court is sitting. It is equally bad to read newspapers, magazines etc while the court is sitting. Watching court proceedings keenly, and listening to seniors argue their cases is a very important way of learning.

Respect for the Bench also extends to showing appreciation to a Judge whenever there is need for it. This show of gratitude is not the same as being patronizing or being unduly subservient. It is the genuine and appropriate response to a favour even if expected. It has been suggested in this regard that:

“Appreciation and gratitude are very soothing. Everyone likes to be thanked when he does something helpful. Judges, almost instinctively, expect some words of gratitude from Barristers from time to time when they do them a tiny favour or the like. Thus, if you ask for an adjournment of your case and it is granted, you should thank the Judge: “I’m much obliged, My Lord” or “I’m grateful to your Lordship” would do just fine. Thank the Judge for standing down your case to allow you make a brief appearance in another case before another court or to fetch a book from the library etc. Thank him for patiently listening to and recording your long argument. Thank him for granting your interlocutory application. Thank him for taking your case before its turn on the list. Thank him for sitting a little longer than usual to one one or two more of your witnesses. Thank him for permitting your tired, pregnant, sick or aged witness to sit down for his or her testimony. In one word, thank him for everything and for anything at all done by him to assist you, your client or any of your witnesses.”

The consequence of lack of respect for court may be commitment for contempt. In the case of Nwafor Orizu Vs. Anyaegbunan 7 counsel for the Respondent sought and obtained the leave of court to submit a list of additional legal authorities which in

his view supported and enhanced his case. In submitting the list he made scanty remarks that were unsavoury and unjustified. He being a Senior Advocate was promptly reprimanded by the Supreme Court. It is indeed a terrible situation when a Senior Advocate is reprimanded in open court for unbecoming behaviour.

Some Lawyers relish in intimidating Judges. They use such phrases as “My Lord if I am overruled in this application, I am happy this is not the apex court. I will appeal.” Some even see Judges who are their junior at the Bar as inferiors in knowledge. They expect that their submissions should overwhelm such Judges and result in decisions in their favour. Take this for an illustration:

“Your Worship or (My Lord), I have never seen such a procedure (or thing) in my X years at the Bar.”

Some even add: “and that is quite some time by any standard.”

“In most cases, Advocates make the above statements derogatorily, particularly when they know that they are older than the Magistrate or Judge at the bar and they want to tell him to his face. That is not professional courtesy. That is professional discourtesy. The age of an Advocate at the Bar is not the issue in the matter and there is therefore no need to remind the Magistrate or Judge of his age at the Bar. That is merely playing to the gallery and the court is not a gallery.”⁸

My candid advise to our aspirants to the Legal profession is to learn from these snippets of vital exhortation and determine even well in advance where they intend to be after having been called to the Bar. Judges are human beings and they interact. Their collective opinion of you may affect and in fact determine your place at the Bar.

PROFESSIONAL DISCIPLINE

The Legal Practitioners Act, Cap.207, Laws of the Federation 1990 makes provisions for the procedure to be adopted in punishing unprofessional conduct of Lawyers. Section 11 thereof creates three classes of unprofessional conduct. Simply put, unprofessional conduct can be defined as conduct which is against or inconsistent with the ethics of the Legal Profession law or rules for the time being in force and any other scandalous conduct. The classes of unprofessional Conduct are:

- (i) where a person whose name is on the roll is judged by the Disciplinary Committee to be guilty of infamous conduct in any professional respect; or
- (ii) where a person whose name is on the roll is convicted, by any court in Nigeria having power to award imprisonment, of an offence (whether or not an offence punishable with imprisonment) which in the opinion of the Disciplinary Committee is incompatible with the status of a Legal Practitioner; or
- (iii) where the Disciplinary Committee is satisfied that the name of any person has been fraudulently enrolled.

Although the Act does not exactly define what tantamounts to infamous conduct, it is provided in Section 11 (1)(a) that a person guilty of infamous conduct in any professional respect will be punished. In Re: G. Idowu **9**.

It was held that it is not sufficient that the Legal Practitioner be guilty of infamous conduct only, but it must be such conduct arising out of or pertaining to his profession.

In the case of Abuah Vs. Legal Practitioners Committee¹⁰, the Supreme Court held that any offence involving fraud or financial dishonesty is incompatible with the status of a Legal Practitioner and the reputation of the profession. The rising spate of complaints against Legal Practitioners is a cause for concern. You are indeed privileged in this ancient city to have amongst you the current Chairman of the Legal Practitioners Disciplinary Committee. He is Chief Bamidele Aiku, S.A.N. It is also hoped that professional excellence for which the Ibadan Branch of the Nigerian Bar Association is reputed is still intact.

Involvement of Lawyers in unwholesome acts is a cause for sadness. Recently a High Court of the Federal Capital Territory, Abuja convicted a Legal Practitioner named Malachi Elisha Brown on four counts of criminal conspiracy and fraudulently altering forms of the Council of Legal Education.¹¹ He was sentenced to four years imprisonment without an option of fine. At the time of his conviction, he was about seven years at the Bar. One can only hope that the sanitization exercise embarked upon by the leadership of the Nigerian Bar Association will yield the expected dividends.

CONCLUSION

Under the topic “Values in the Legal Profession”, I have attempted to bring to the fore some essential aspects of what is expected of Legal Practitioners. With rising numbers, breaches of norms and acceptable practices spiral. Several reasons may be responsible for this. What is important however is that those charged with moulding future Lawyers must ensure a constant recourse to the upliftment of those virtuous norms and attributes in all facets of their training.

Happily some of them are already visible. It is a source of pride and satisfaction when we see Law Students turned out compliant in the prescribed dress code. That is the way it should be. It is hoped that they will from the University learn to imbibe other aspects of professional decorum some of which I touched upon in this paper.

As suggested at the last Nigerian Bar Association Conference in Enugu, names of Legal Practitioners against whom petitions have been written should be published. Even if those accused don't get their names published, all those found wanting in one form or the other after due process should be listed in all newspapers for public knowledge. I share the view of Hon. Justice Niki Tobi J.S.C. when he observed that this will go a long way to curtail the excesses displayed by some members of the legal profession these days.

I will also encourage would be Lawyers listening, to ensure that they associate with the Nigerian Bar Association when they become Lawyers. Interaction with the Association and its activities should further assist them to imbibe the values of the profession. It may interest you to know that at the Nigerian Law School, we constantly see students displaying shocking table manners at Law Dinners! Even though we instruct them on these simple endeavours, the novelty of formal dining to some makes change a formidable task. I would suggest that the Law Students Association should consider the institution of Semester dinners for its members. These need not be expensive or elaborate. The aim here is to teach table manners in a relaxed atmosphere. Staff members may also consider giving short after dinner speeches on values in the profession at such dinners.

I cannot end without a terse reference to the use of language. It is disturbing to know how limited many students of Law are in the use of

English Language. It is true that the Law Faculty is not the place of English tuition. But the manifest limitations of some of our students is a cause for concern. This has been the observation of a number of Judges and Senior members of the profession. I would suggest that a way be found to update the grasp of English language among our students. A way out may be to introduce a compulsory course in basic English (in conjunction with the Department of English) for students found to be highly defective. The University in my view is the best place to cure this defect since they spend at least five years there.

Our aim is to train Lawyers who will advance our jurisprudence in every sense. The ray of hope is that even in the midst of despair, pockets of excellence abound. My hope is that those of you here will come out to uphold the ethics of the profession and even go on to make your impact by way of positive changes.

I thank you for listening.

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END NOTES:

1. Made Up of 53 Rules
2. Re: Isaac Oluwaleyimu (1974) W.S.H.C.R. 49
3. Rule 26 (a) RPC
4. Ekundayo, A.: Hints on Legal Practice, Nigerian Institute of Advanced Legal Studies 1992, p.53
5. Ekundayo, A. Hints on Legal Practice, (Nigerian Institute of Advanced Legal Studies 1992), p.60.
6. Rule 1 RPC.
7. (1978) 5 S.C. 21
8. See Niki Tobi: The Nigerian Lawyer, Law Research and Development Forum Limited (2002) p.271.
9. (1971) All N.L.R. 126. See also E & Parte Mechan (1965) N.S.W. Rep.30, and Re Davies (1898) 14 TLR 332.
- 10.1962) 1 All N.L.R 279.
- 11.The State Vs. MALACHI ELISHA BROWN AND ANOR,
CRIMINAL CASE NO. FCT/HC/CR/29/2000 of March 3, 2003.