



THE FUTURE OF THE LEGAL PROFESSION AND THE REGULATION OF LEGAL PRACTITIONERS

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Introduction



In the words of British Actor, Craig Charles:

It is evolve or die really, you have to evolve, you have to move on otherwise it just becomes stagnant.

Introduction



- There are growing concerns about falling standards in the legal profession, the quality of legal education, deteriorating standards of professional ethics and weak regulatory regimes for the legal profession as well as the threats that technology and globalization have brought for legal practitioners.
- The root of these concerns have been traced to failures in the regulation of our profession.

Evolution of the Legal Profession and Regulation of Legal Practitioners in Nigeria



- The legal profession started with a band of jurists referred to as the Orators of Athens, though it was a time when persons were not allowed to charge a fee to “plead the cause of another”.
- The ban on fees was abolished by Emperor Claudius and Roman advocates were allowed to practice openly for a fee ceiling of **10,000 sesterces**.
- In Nigeria, the legal profession started in 1876 with the promulgation of the Supreme Court Ordinance of 1876 which empowered the Chief Justice to approve, admit and enroll barristers and solicitors to practice in the court provided that such persons must have first been called to the English Bar, Ireland Bar, Dublin Bar or Edinburgh Bar.

Where are we now?



- Since 1962: The Legal Practitioners Act, 1975 is the principal legislation regulating legal practice, remuneration of practitioners, the General Council of the Bar, safeguards for clients, actions that amount to unprofessional conduct, as well as sanctions to be meted out.
- As legal practitioners in this age, we belong to a time of fluidity, where traditional walls are collapsing and the world is being shaped as a global village. There exists free trade agreements and commerce on a large scale.
- Technology has also continued to develop with the advent of disruptions such as block chain technology and its use cases that include the provision of some legal services traditionally performed by lawyers (e.g. Regtech applications and smart and Ricardian contracts). Legal practitioners are now required to play 'catch up' with these advancements.

Where are we headed?



- The existing legal framework regulating the legal profession is archaic and not in tune with modern societal trends. The sociological appraisal of the laws is necessary to ensure instrumental change in the society.
- The rapidly changing world triggered by the disruptive innovation in technology calls for proactive or adaptive measures that would make lawyers relevant and competitive.
- The existing frameworks must be amended to suit the evolving realities.

Reshaping The Future of The Legal Profession in Nigeria



- The Nigerian Bar Association Legal Professional Regulation Review Committee set up in 2017 had the responsibility of tackling and proffering solutions to issues within the regulatory structure of the profession.
- The Committee recommended the Legal Profession Regulation Bill to the National Assembly for enactment into law (though this bill is still pending before the National Assembly).

Reshaping The Future of The Legal Profession in Nigeria



Several innovations were introduced into the Bill some of which include:

- a. the establishment of the Legal Profession Regulation Council of Nigeria – a body charged with the responsibility of amongst others regulating the overall interests of the public and to achieve the regulatory objectives and professional principles set in the Bill.
- b. the vesting of legal capacity on the Nigerian Law School.
- c. A mandatory two-year pupillage for every person called to the Nigerian Bar from the date of commencement of the Act.

Reshaping the Future of the Profession



The Bill further makes provisions for the following:

- a. The establishment of an Education and Training Committee
- b. Establishment of a Remuneration and Welfare Committee
- c. Establishment of a Law Reform Research Committee

A comparative analysis of the Bill vis-a-vis the United Kingdom's legal regulatory framework reveals that the Bill adopts the regulatory structure currently employed by the Bar Council and Bar Standards Board in regulating the practice of Barristers in the United Kingdom. It is our hope that the Bill comes into force as soon as practicable.

Ethics and Conduct of Lawyers



- The foundation of the legal profession is built on the ideas of ethical conduct and lawyers being of a higher calling of moral standards.
- Lawyers are ministers in the temple of justice and are expected to maintain a certain standard of conduct and ethics.
- The legal profession which is not immune to societal trends and technological advancement is experiencing issues arising from these developments and the position of the law in reaction to these developments.

The typical issues affecting the sanctity of professional ethics include:

- a. Advertisement, Soliciting and Pitching
- b. Engaging in other business – Rule 7 of the RPC
- c. Conduct of legal practitioners in perverting justice through frivolous applications, deceiving the court, unnecessary adjournments, outright corrupt activities, etc.

Enforcement of Sanctions against Lawyers



- The activities of the Legal Practitioners Disciplinary Committee and the Legal Practitioner's Privileges Committee is commendable and laudable in ensuring that the ethos of the legal community is maintained.
- In the past few months, the legal profession has experienced instances of direct sanctions to legal practitioners from the court and the debate of whether such persons can be tried by the relevant administrative bodies before being charged to Court.

The Legal Paradigm of the Future



- On the brink of a shift in legal paradigm where many features of legal service & legal process of today will be displaced by a new way of legal life underpinned by a fresh set of basic assumptions about the law and lawyers.
- Shift will happen if we emerge from the traditional way of thinking to the fully-fledged IT-based information society.
- Technology lag will need to be overcome. Capacity to manage legal information will then be equal to our ability to create and disseminate it
- The ability to negotiate and enter into contractual terms will be the key distinguishing factor for Managers

The Shift in Legal Paradigm



THE SHIFT IN LEGAL PARADIGM

Today's Legal Paradigm

LEGAL SERVICE

advisory service
one-to-one
reactive service
time-based billing
restrictive
defensive
legal focus

LEGAL PROCESS

legal problem solving
dispute resolution
publication of law
dedicated legal profession
engineers
print-based

Tomorrow's Legal Paradigm

LEGAL SERVICE

information service
one-to-many
proactive service
commodity pricing
empowering
pragmatic
business focus

LEGAL PROCESS

legal risk management
dispute pre-emption
promulgation of law
legal specialists & info.

IT-based legal systems

Legal Service: The paradigm shift



- **From advisory to informative service:** ICT will enable & encourage legal service to change from being a form of advisory service to a type of informative service.
- With the exception of specialist lawyers & judges, the work of the lawyers will move gradually in a leftwards direction along the 'The Legal Information Continuum, both serving & liberating the latent legal market.
- **From one-to-one to one-to-many:** As legal service becomes a form of informative service, & lawyers package knowledge & experience as informative services designed for direct consultation by non-lawyers, the work will no longer be only for one case, but to many in a reusable form well suited for repeated consultation.

The Legal Paradigm shift contd.



- **From reactive to proactive:** Once it becomes practicable & financially viable for non-lawyers quickly to obtain usable legal guidance, earlier legal input in the life cycles of transactions & disputes will become commonplace.
- They will no longer need to be instructed & involved at the start of projects, they will have to develop suites of legal information products, the embodiment of proactivity which will overcome the paradox of technical reactive legal service
- **Migration from lump sum billing through time-based billing, to commodity pricing:** With the work product of lawyers becomes reusable, and the time and effort expended cannot sensibly be allocated amongst those paying for the service, there can be no question of hourly billing or least of all, percentage billing. The time billing will be seen as penalizing the efficient & rewarding the indolent.

The Legal Paradigm shift contd.



- **From restrictive to empowering:** With the demystification of the law & its far wider availability will come the perception that law does more than set up obstacles in the path of domestic, social & commercial arrangements.
- Law will transit from being restrictive to a source of empowerment to the exploitation of business opportunities
- **From defensive to pragmatic:** Availability of legal information services will give rise to improvement but not perfection in making the law more usable & available & the marketplace will establish mechanism for drawing attention to unreliable or defective services.

The Legal Paradigm shift contd.



- **From legal focus to business focus:** The successful informative services of the future will be those that provide legal guidance with a far greater business focus
- **From lawyer knows it all to information sharing as service points:** The “whereinbefore” & “hitherto” will give way to simple intelligible language that communicates effectively. Here any Manager can read & interpret a simple agreement without resorting to lawyers.
- Segmentation of Agreements into Technical Specification Schedules will give way to cumbersome agreements that embody all sorts of issues.

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- **From legal problem solving to legal risk management:** Legal problem solving will diminish in significance in the future. Emphasis will shift towards legal risk management supported by proactive facilities in the form legal informative services & products. Early consultation will help citizens understand & identify their risks & control them before any question of escalation.
- **From dispute resolution to dispute pre-emption:** The effective control of legal risks prior to their escalation will mean that disputes will be pre-empted & avoided & so will not progress to any formal or alternative resolution process.
- Access to justice programme (a2j)

The Legal Process contd.



- **From publication of the law to promulgation of the law:** Despite the reluctance to publish legislation & case law on the Internet, it is common to now find the law on the net. e.g. westlaw.com
- **From a dedicated legal profession to legal specialists & information engineers:** That exclusive position as the interface between individuals & businesses on the one hand & access to the rule of law on the other presently being enjoyed by the legal profession will not be sustainable. An ever more powerful ICT based information systems will gradually erode this position.

The Legal Process contd



- Lawyers of the future will be constituted of two tiers - not the solicitors & advocates of today, but the **legal specialists & legal information engineers** of the information society.
- Whether or not there is sufficient entrepreneurial talent & general foresight to be involved in the third discipline, that of marketing, as **providers of the legal information services & products**, is a great unanswered question of today.
- **From print-based to IT-based legal systems:** Finally & in summary, legal practice & the administration of justice will no longer be dominated by print & paper in tomorrow's legal paradigm. Instead, legal systems of the information society will evolve rapidly under the powerful influence of ICT.

Conclusion and Recommendations



- Facing the future requires that we prepare both the old and the new for it, starting with where we are coming from.
- The basis and evolution of legal practice is character-centered, it is one of ethics and nobility. Legal practitioners have historically been highly regarded as being of a higher ethos, which is why we coined the saying of being ‘learned’ and ‘noble’.
- This background must guide our decisions relating to the regulation of our profession. We must not allow the pursuit of profit or success to take away our higher calling of justice and excellence.

Conclusion and Recommendations



- The inclusion of the mandatory two-year pupillage would help in deepening knowledge and the practice of law.
- Historically, the education of lawyers was through the apprenticeship model. Whilst the law school may adequately provide lawyers with the tools they require (most especially the externship period), a pupillage will further allow young lawyers to gather requisite experience under the guardianship of experienced senior lawyers with minimum standards of working conditions provided.
- Such pupillage would also emphasize the sensitive and competitive nature of our profession.

Conclusion and Recommendations



- The Legal Profession Regulation Bill addresses numerous issues regarding the legal profession and makes commendable provisions.
- It is our hope that The Legal Profession Regulation Bill pending before the National Assembly would (subject to a set of modifications) be enacted, to give the profession the 'fresh start' and renewal of standards it deserves.
- My ultimate vision is that Nigerian lawyers become equipped to handle the diverse and competing roles required of a 21st Century lawyer in light of global occurrences and technological advancements while still maintaining the foundational principles of our noble profession.

THANK YOU

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